

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

HANS A. QUAACK, ATTILIO PO
and KARL LEIBINGER, on behalf of
themselves and those similarly situated,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

No.: 03-CV-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware
Corporation, STONINGTON CAPITAL
APPRECIATION 1994 FUND L.P., a Delaware
Partnership and STONINGTON HOLDINGS,
L.L.C., a Delaware limited liability company,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

No.: 04-CV-10411 (PBS)

GARY B. FILLER and LAWRENCE PERLMAN,
Trustees of the TRA Rights Trust,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

No.: 04-CV-10477 (PBS)

JANET BAKER and JAMES BAKER, JKBAKER LLC
and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

No.: 04-CV-10501 (PBS)

**REPLY DECLARATION OF SUSAN M. DAVIES IN FURTHER SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL DEPOSITIONS OF DEFENDANT DEXIA BANK
BELGIUM THROUGH JEAN-PAUL CLOES, CATHERINE DECOUTERE,
IVAN DE COEN, JORIS VAN HELLEPUTTE, AND NADIA VAN HOVE**

SUSAN M. DAVIES, declares pursuant to 28 U.S.C. § 1746 that:

1. I am a member of the Gregory P. Joseph Law Offices LLC, which represents Plaintiffs Gary B. Filler and Lawrence Perlman, Trustees of the TRA Rights Trust ("Filler Plaintiffs"). On June 13, 2005, the Court granted leave for me to appear *pro hac vice* in the above-captioned action *Filler v. Dexia, S.A.*, No.: 04-CV-10477 (PBS). Unless otherwise indicated, I have personal knowledge of the matters addressed in this declaration. I am over the age of 18 and am fully competent to testify.

2. With the consent of the Court, I will submit this reply declaration in further support of the motion by plaintiffs in the above-captioned actions ("Plaintiffs") for an order compelling defendant Dexia Bank Belgium ("Dexia") to produce its current managing agents Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris van Helleputte, and Nadia van Hove for deposition by Plaintiffs pursuant to Rule 30 in Brussels, Belgium.

Deposition Testimony of Dexia's Senior Executives Confirms that Cloes, Decoutere, De Coen, and Van Helleputte Are Dexia's Managing Agents

3. Dexia asserts that "Plaintiffs have not obtained *any* testimony from [depositions of Dexia's senior executives] indicating that the five individuals that are the subject of this motion are or were managing agents of Dexia." (Dexia Opp. Mem. at 2) (emphasis in original). This is false. The deposition testimony of senior Dexia executives confirms that **Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, and Joris van Helleputte** were not -- as Dexia contends -- "inferior[s]" acting under "close supervision or direction" (*id.* at 3) but employees who exercised significant discretion and responsibility over matters at issue in this litigation.

4. **Jean-Paul Cloes and Catherine Decoutere.** The testimony of Dexia executive Alain Probst flatly contradicts Dexia's unsupported assertion that the audit reports prepared by **Mr. Cloes and Ms. Decoutere** "merely represent recommendations given to more senior executives, who were the real decision-makers within the Bank." (Dexia Opp. Mem. at 4.) According to Mr. Probst: "the conclusions and recommendations of an [internal] audit are not debatable, they are applied." (**Exhibit LL** (excerpts from Probst Tr. 03/14/06) 109 line 25 – 110 line 1 (emphasis added).) Indeed, that much is evident from the audit reports themselves (*see* Exhibits K, L, U and V to the *Declaration of Susan M. Davies in Support of Plaintiffs' Motion to Compel Depositions of Defendant Dexia Bank Belgium Through Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris van Helleputte, and Nadia van Hove* executed on May 3, 2006 ("Davies Decl.")) which not only contain findings and conclusions, but direct that specific follow-up actions be taken by various departments within the bank and by senior executives such as Alain Probst and Patrick van Tiggel. (*See especially* Davies Decl. Exhibit L at DBB037643 and Exhibit V.) Thus, contrary to Dexia's argument, it was not Dexia's executives but the auditors themselves who were the ultimate decision-makers with respect to internal audits: Dexia's executives did not "debat[e]" but merely "applied" the auditors' conclusions and recommendations.

5. This conclusion is further supported by the fact that the Audit Department was not part of the bank's management hierarchy. According to Dexia executive Claude Piret, the head of the Audit Department, Auditor General Eric De Gyns, reported directly to the CEO/President of Artesia Bank, Dirk Bruneel. (**Exhibit KK** (excerpts from Piret Tr. 03/16/06) at 85 lines 6-8, 156 lines 15-22.) Without such independence, **Mr. Cloes** would not have been able to conclude (as he did) that senior Dexia executives, including Mr. Piret and François Saverys, had acted in excess of their authority in deciding not to mention the Credit Default Swaps with Messrs. Lernout, Hauspie and Willaert in the credit letters for the Radial and LIC loans. *See* below at ¶ 13.

6. **Ivan de Coen**. The deposition testimony of Dexia executive Jacques Janssens confirms that the Management Committee of Paribas Bank based its decision to grant a loan to Dictation on information prepared by **Ivan De Coen**. (**Exhibit MM** (Janssens Tr. 04/20/06) at 85 line 2 – 86 line 15 (specifically referencing Davies Decl. Exh. R), 88 line 18 – 89 line 11 (specifically referencing Davies Decl. Exh. S); *cf.* Davies Decl. Exhibit B at 7.)

7. **Joris van Helleputte**. According to the deposition testimony of Dexia executive Philippe Steverlynck, when he worked in the Credit Secretariat of Paribas Bank during 1996-97, **Mr. Van Helleputte** was responsible for advising the bank concerning the credit risks presented by particular credit proposals, including the credit proposal for the loan to Dictation. (**Exhibit NN** (excerpts from Steverlynck Tr. 04/27/06) at 12 line 6 – 14 line 23, 34 line 23 – 36 line 19, 81 lines 3-25.) Mr. Steverlynck's testimony indicates that during this period he – as director of the Credit Secretariat – did not closely supervise the work of **Mr. Van Helleputte** – to whom he refers as a “colleague” – and that **Mr. Van Helleputte** acted on his own initiative in preparing memoranda for other senior Dexia executives such as Mr. Janssens. (*Id.* at 11 lines 1-6, 34 line 23 – 36 line 19.) Mr. Steverlynck contrasts **Mr. Van Helleputte's** responsibilities with the more administrative functions (such as registration of long-term loans) performed by other employees under Mr. Steverlynck's supervision in 1996. (*Id.* at 14 lines 6-17.)

Depositions of Dexia’s Senior Executives Have Confirmed That They Do Not Possess the Information Sought from Cloes, Decoutere, De Coen, Van Helleputte, and Van Hove

8. Dexia argues that this Court should deny the instant motion because Plaintiffs have had the opportunity to question Dexia executive Jacques Janssens “extensively” concerning the Dictation and BTG loans, and to question several Dexia “decision-makers” who received copies of **Mr. Cloes’** and **Ms. Decoutere’s** audit reports. (Dexia Opp. Mem. at 4, 6, 7 n.10.) Dexia ignores the fact that – as Plaintiffs previously predicted – Dexia’s senior executives lack personal knowledge of much of the information Plaintiffs seek. (Davies Decl. Exh. B at 5-6.)

9. **Dictation Loan.** Mr. Janssens’ deposition testimony concerning the Dictation loan is replete with non-responsive answers,¹ and claims of lack of knowledge² and lack of recollection.³ For example, Mr. Janssens claims to lack any knowledge concerning additional compensation and/or an “equity kicker” to be provided to Paribas Bank by L&H in connection with the Dictation loan,⁴ and concerning the fact that in June 1997 Dictation sought an emergency bridge loan of \$4.5 million in order to pay fees to L&H that L&H could recognize as revenue in the quarter ended June 30, 1997 and thereby avoid a negative impact on the price of L&H stock.⁵ Both of these matters are discussed in memoranda authored by **Mr. De Coen.**⁶ Both of these matters are highly relevant to Dexia’s scienter, particularly in light of Dexia’s knowledge – testified to by Mr. Janssens – “that [L&H] could not be involved directly or indirectly in the financing provided to Dictation Consortium in order for [L&H] to recognize revenue on the monies it received from Dictation.” (**Exhibit MM** (Janssens Tr. 04/20/06) at 65

¹ **Exhibit MM** (Janssens Tr. 04/20/06) at 62 line 25 – 64 line 14, 88 lines 7-17.

² *Id.* at 78 lines 1-6, 78 lines 7-13, 84 lines 11-15, 86 line 22 – 87 line 6, 87 line 21 – 88 line 6, 95 lines 6-14, 96 lines 19-25

³ *Id.* at 55 lines 6-9, 56 lines 14-17, 58 line 23 – 59 line 2, 59 lines 3-9, 58 lines 17-22, 69 line 13-20, 78 line 24 – 79 line 4, 87 lines 8-20, 98 lines 7-13, 98 lines 14-16.

⁴ *Id.* at 78 lines 1-6, 78 lines 7-13, 78 line 24 – 79 line 4, 84 lines 11-15, 86 line 22 – 87 line 6, 87 line 21 – 88 line 6.

⁵ *Id.* at 94 line 9 – 98 line 16.

⁶ *Id.* at 85 line 2 – 88 line 17 (discussing Davies Decl. Exh. R, esp. at DBB075012), 94 line 9 – 98 line 16 (discussing Davies Decl. Exh. S, esp. at DBB074686.)

line 3 – 66 line 6.) **Mr. De Coen** knew about these highly relevant matters when he prepared his memoranda to the Management Committee and, notwithstanding Dexia’s unsupported assertion that he is unlikely to remember anything about them nine years later (Dexia Opp. Mem. at 6), Plaintiffs are entitled to test **Mr. De Coen’s** recollection at a deposition. *See Travelers Rental Co. v. Ford Motor Co.*, 116 F.R.D. 140, 143 (D. Mass. 1987) (“The plaintiff is entitled to ‘test’ the claim of lack of knowledge or lack of recollection by deposing the witness.”)

10. **BTG Loan.** Mr. Janssens is the only Dexia executive Plaintiffs have been permitted to depose who had any knowledge or recollection whatsoever about Paribas Bank’s loan to BTG,⁷ and Mr. Janssens’ knowledge and recall were sketchy, at best. In particular, Mr. Janssens was unable to provide information concerning the bank’s knowledge of the borrower, the purpose for the loan, L&H’s role in connection with the financing, the bank’s reasons for violating its own procedures for authorizing draw downs on the approved credit, and the bank’s consideration of a Credit Default Swap with Messrs. Lernout, Hauspie and Willaert as a means of securing the loan.⁸ Among other documents, Mr. Janssens testified that he had never seen a June 29, 1998 memorandum concerning BTG authored by **Mr. De Coen** and Patrick Faict. (**Exhibit MM** (Janssens Tr. 04/20/06) at 118 lines 15-24.) Plaintiffs are entitled to depose **Mr. De Coen** and **Mr. Van Helleputte** concerning their numerous memoranda about BTG.

11. **Artesia Securities’ Analysts’ Reports.** None of the Dexia executives whom Plaintiffs have been permitted to depose has provided any information concerning the Artesia Securities’ analysts’ reports about L&H that were “coordinat[ed]” by **Ms. Van Hove**, the Manager of Corporate Research for Artesia Bank.⁹ (Davies Decl. Exh. W at ¶ 178.) The

⁷ See **Exhibit OO** (excerpts from Mommens Tr. 04/19/06) at 143 line 10 – 144 line 15, 158 lines 3-15; **Exhibit KK** (excerpts from Piret Tr. 03/16/06) at 83 lines 13-15; **Exhibit PP** (excerpts from Saverys Tr. 04/26/06) at 169 line 25 – 186 line 15, 198 lines 9-17; **Exhibit NN** (excerpts from Steverlynck Tr. 04/27/06) at 99 line 6 – 100 line 21, 101 line 5 – 104 line 9; **Exhibit QQ** (excerpts from Van Riet Tr. 04/24/06) at 86 line 6 – 87 line 22.

⁸ **Exhibit MM** (Janssens Tr. 04/20/06) at 101 lines 19-24, 102 lines 7-9, 102 lines 19-24, 103 lines 4-10, 103 lines 11-22, 106 lines 12-24, 113 line 19 – 114 line 3, 115 lines 10-18, 116 lines 1-3, 116 lines 17-25, 117 lines 1-12, 117 line 22 – 118 line 2, 118 lines 3-6, 118 lines 7-10, 120 lines 17-21, 121 line 24 – 122 line 12.

⁹ **Exhibit RR** (excerpts from Janssens Tr. 04/21/06) at 255 line 19 – 259 line 19; **Exhibit OO** (excerpts from Mommens Tr. 04/19/06) at 310 line 1 – 311 line 18, 340 line 6 – 341 line 22; **Exhibit PP** (excerpts from Saverys Tr. 04/26/06) at 31 lines 12-21; **Exhibit SS** (excerpts from Steverlynck 04/28/06) at 134 line 11 – 135 line 11.

deposition testimony of Dexia executives indicates that, other than **Ms. Van Hove**, the persons likely to be most knowledgeable about the Artesia Securities' analysts' reports are Rene Avonts,¹⁰ and Stefane Decraene.¹¹ Mr. Avonts, who resides in Belgium (beyond the subpoena power of this Court), is no longer employed by Dexia. (Davies Decl. Exh. G at 4, 18.) It is Dexia's current position that Mr. Decraene is too senior an executive to be made available for deposition by Plaintiffs absent some special showing of need for his testimony. (See letter dated May 19, 2006 from Jeff E. Butler, Esq., Clifford Chance US LLP, to Patrick L. Rocco, Esq. annexed as **Exhibit TT** hereto.)

12. **Internal Audit Reports.** Contrary to Dexia's assertion, Plaintiffs' examination of Dexia executives Claude Piret and François Saverys concerning the internal audit reports prepared by **Mr. Cloes** and **Ms. Decoutere** has not provided the information that Plaintiffs seek from the auditors themselves. (*Contra* Dexia Opp. Mem. at 4.) Mr. Piret testified at his deposition that he had no involvement in the internal audit function of the bank, and had never been involved in an internal audit of a credit within his department.¹² Mr. Saverys testified that he does not know how an internal audit is organized,¹³ and could not recall discussions with anyone in the Audit Department about **Mr. Cloes'** and **Ms. Decoutere's** reports.¹⁴ As regards the audit reports themselves, Mr. Saverys was unable to provide any insight into their meaning.¹⁵ Indeed, his testimony amounted to little more than reading what was written in the reports.¹⁶

¹⁰ **Exhibit RR** (excerpts from Janssens Tr. 04/21/06) at 258 lines 2-16. See also Davies Decl. Exh. P.

¹¹ **Exhibit SS** (excerpts from Steverlynck Tr. 04/28/06) at 133 lines 1-19. See also Davies Decl. Exh. P.

¹² **Exhibit KK** (excerpts from Piret Tr. 03/16/06) at 155 line 24 – 156 line 14.

¹³ **Exhibit PP** (excerpts from Saverys Tr. 04/26/06) at 20 lines 7-11.

¹⁴ **Exhibit UU** (excerpts from Saverys Tr. 4/25/06) at 95 lines 13-25 (referring to Davies Decl. Exh. K); **Exhibit PP** (excerpts from Saverys Tr. 4/26/06) at 74 lines 4-7 (referring to Davies Decl. Exh. V), 81 line 20 – 82 line 3 (referring to Davies Decl. Exh. U).

¹⁵ E.g., **Exhibit UU** (excerpts from Saverys Tr. 4/25/06) at 98 line 20 – 99 line 6; **Exhibit PP** (excerpts from Saverys Tr. 4/26/06) at 19 line 25 – 20 line 11, 71 lines 18-20, 81 lines 6-13.

¹⁶ **Exhibit UU** (excerpts from Saverys Tr. 4/25/06) at 91 line 19 – 92 line 8, 92 line 22 – 94 line 11, 94 line 18 – 94 line 12, 96 line 5 – 99 line 6; **Exhibit PP** (excerpts from Saverys Tr. 4/26/06) at 68 line 11 – 77 line 4.

13. Moreover, it is simply not the case that Messrs. Piret and Saverys were the “real decision-makers” to whom **Mr. Cloes** and **Ms. Decoutere** made “mere[] recommendations.” (*Contra* Dexia Opp. Mem. at 4.) In fact, **Mr. Cloes’** January 20, 2000 report expressly concludes that Messrs. Piret and Saverys, as well as other members of the bank’s Credit Committee 1, acted contrary to the unanimous advice of Dexia’s lawyers – and in excess of their authority – in deciding not to mention the Credit Default Swaps with Messrs. Lernout, Hauspie and Willaert in the credit letters for the Radial and LIC loans.¹⁷ Needless to say, at their depositions both Mr. Saverys and Mr. Piret expressed disagreement with **Mr. Cloes’** conclusion on this subject,¹⁸ further necessitating the opportunity for Plaintiffs to examine **Mr. Cloes** concerning the basis for his conclusion.

14. In summary Plaintiffs respectfully submit that the information they have been able to obtain from depositions of senior Dexia executives has not satisfied their need to conduct further depositions of Dexia’s knowledgeable managing agents, within the limit of 25 depositions to which Dexia has agreed. Any remaining doubt this Court may have concerning whether **Cloes, Decoutere, De Coen, Van Helleputte, and Van Hove** are properly characterized as Dexia’s managing agents “should be resolved in favor of [Plaintiffs] because the ultimate determination – that [Dexia] is or is not bound by the testimony of [these individuals] – ‘is to be made by the trial court.’” *U.S. v. The Dorothy McAllister*, 24 F.R.D. 316, 318 (S.D.N.Y. 1959).

Certification Under D. Mass. Local Rules 7.1(a)(2) and 37.1(b)

15. Pursuant to Local Rules 7.1(a)(2), I hereby certify that on May 24, 2006, I conferred by telephone with James B. Weidner, Esq. of Clifford Chance US LLP, counsel for Dexia, concerning the filing of the instant motion. Mr. Weidner indicated that Dexia would not consent to Plaintiffs’ application for leave to file the Reply Declaration.

¹⁷ **Exhibit UU** (excerpts from Saverys Tr. 04/25/06) at 91 line 19 – 92 line 8; **Exhibit VV** (excerpts from Piret Tr. 03/17/06) at 71 line 7 – 74 line 9. *See also* Davies Decl. Exh. K at DBB083285, DBB083286.

¹⁸ **Exhibit UU** (excerpts from Saverys Tr. 04/25/06) at 92 lines 6-8; **Exhibit VV** (excerpts from Piret Tr. 03/17/06) at 72 line 18 – 73 line 6.

WHEREFORE, and for the reasons set forth above, and in Plaintiffs' initial moving papers, Plaintiffs respectfully request that this Court enter an order:

- (1) compelling defendant Dexia Bank Belgium to produce Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris Van Helleputte, and Nadia Van Hove for deposition by Plaintiffs in the above-captioned actions, and
- (2) for such other and further relief as the Court deems just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York this 24th day of May 2006.



SUSAN M. DAVIES

N.Y. Attorney Registration #2413508

CERTIFICATE OF SERVICE

I hereby certify that this document will be filed through the ECF system, which filing will constitute service of the document upon all registered ECF users as identified on the Notice of Electronic Filing (NEF). A paper copy of this document has been mailed in accordance with FED. R. CIV. P. 5(b) to all those case participants not identified on the NEF as electronic recipients.

/s/ Susan M. Davies

N.Y. Attorney Registration # 2413508

EXHIBIT KK

Excerpts From The
March 16, 2006
Deposition of
Claude Piret

13 Q. Did Paribas to your knowledge provide
14 financing for the Brussels Translation Group?

15 A. I don't remember any more, it's possible.

6 A. Mr Bruneel became the CEO President of the
7 Management Board and Mr Romagnoli became I think the
8 Chairman.

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24 MR ROCCO: Sir what involvement, if any, do
25 you have with the Internal Audit function of the Bank?

156

1 A. None.

2 Q. Do you get involved when the Internal Audit
3 takes a look at a credit within your Department?

4 A. It can be, but not automatically.

5 Q. What are the instances where you would be
6 involved in the Internal Audit of a credit within your
7 Department, can you give me an example?

8 A. None.

9 Q. There's none?

10 A. None.

11 Q. I misunderstood you, I thought you said there
12 could be instances where you would be involved?

13 A. No, to the best of my knowledge there were
14 none.

15 Q. Do you know when the merged entity, now I am
16 speaking of Artesia, to whom the Internal Audit
17 function reported?

18 A. I think it was to the CEO.

19 Q. Directly to the CEO?

20 A. Directly to the CEO but you can deduce that
21 from the document with the number 17 that you showed me
22 today. Normally it should be there.

EXHIBIT LL

Excerpts From The
March 14, 2006
Deposition of
Alain Probst

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25 A. And the conclusions and recommendations of an

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1 audit are not debateable, they are applied.

EXHIBIT MM

April 20, 2006
Deposition of
Jacques Janssens

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2
3 THE UNITED STATES DISTRICT COURT
4 FOR THE DISTRICT OF MASSACHUSETTS
5 -----
6 HANS A QUAACK, ATTILIO PO AND KARL)
7 LEIBINGER, on behalf of)
8 themselves and those similarly)
9 situated)
10)
11 Plaintiffs) No:
12) 03-CV-11566 (PBS)
13 v)
14)
15 DEXIA, S.A. and DEXIA BANK)
16 BELGIUM (formerly known as)
17 ARTESIA BANKING CORP S.A.)
18)
19 Defendants)
20 -----
21 STONINGTON PARTNERS, INC.,)
22 a Delaware Corporation,)
23 STONINGTON CAPITAL APPRECIATION)
24 1994 FUND LP, a Delaware)
25 Partnership and STONINGTON)
HOLDINGS LLC., a Delaware)
Limited Liability Company)
)
) 04-CV-10411 (PBS)
Plaintiffs)
)
v)
)
DEXIA SA and DEXIA BANK BELGIUM)
(Formerly known as ARTESIA)
BANKING CORP., SA)
)
Defendants)

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2 GARY B FILLER and LAWRENCE)
3 PELMAN, trustees of the TRA)
4 Rights Trust)
5)
6 Plaintiffs)
7)
8 v)
9)
10 DEXIA, S.A. and DEXIA BANK)
11 BELGIUM (formerly known as)
12 ARTESIA BANKING CORP S.A.)
13)
14 Defendants)
15 -----

9 JANET BAKER and JAMES BAKER)
10 JK BAKER LLC and JM BAKER LLC)
11)
12 Plaintiffs)
13)
14 v)
15)
16 DEXIA SA and DEXIA BANK BELGIUM)
17 (Formerly known as ARTESIA)
18 BANKING CORP., SA)
19)
20 Defendants)
21 -----

16
17
18 Deposition of:
19 JACQUES JANSSENS
20
21 taken at the offices of
22
23 Dal & Veldekens
24 Rue de l'Aurore/Dageraadstraat 18
25 Brussels

on Thursday, 20th April 2006

DAY 1

Reported by: Paul Brinciau, MBIVR ACR

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A P P E A R A N C E S

Appearing on behalf of the Plaintiffs (Stonington):

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For the defendants:

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Clifford Chance US LLP
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1

2 In attendance for Clifford Chance:

3 Eline Tritsmans

4 Benoit Allemeersch

5 Court Reporter and Videographer:

6 Paul Brincau

7 Pat Kirk

8 Anglo American Court Reporters

9 150 The Minories

10 London EC3N 1LS

11 England

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(All documents and exhibits were retained by
counsel. Consequently the accuracy of the spelling
of some [Belgian/Dutch/French] names and of some of
the content of quotations could not be verified)

1

2

3 (The deposition commenced at 09.05)

4 Interpreter sworn.

5 BERNARD Mr. Janssens, sworn.

6 Examined by MR. ROCCO.

7 Q. Just for the record, the oath is
8 being administered to both the interpreter and the
9 witness pursuant to our written stipulation that
10 the court reporter may administer such oath here in
11 Belgium, correct?

12 MR. BUTLER: That is correct.

13 Q. Mr. Janssens, good morning. My
14 name as you have heard is Pat Rocco and I represent
15 the class plaintiffs in this litigation. You
16 understand, sir, that you are under oath?

17 A. Yes.

18 Q. That means you have an
19 obligation to tell the truth, do you understand
20 that?

21 A. Yes.

22 Q. Have you ever been deposed
23 before in an American proceeding?

24 A. No.

25 Q. Have you ever given testimony in

1 court before?

2 A. No.

3 Q. Have you had a chance to discuss
4 the nature of today's proceedings with your
5 attorneys?

6 MR. BUTLER: Let me just caution the
7 witness that that is a 'yes' or 'no' question.

8 A. Yes.

9 MR. ROCCO: And so you understand the
10 nature of today's proceedings, is that correct?

11 A. That's right.

12 Q. There will be a transcript made
13 of today's proceedings of everything that I say,
14 that you say and the lawyers around the table say,
15 do you understand that?

16 A. Yes.

17 Q. If for some reason you do not
18 understand a question that I ask please ask me to
19 rephrase it and I will be happy to try and make it
20 more understandable, okay?

21 A. Yes.

22 Q. If for some reason you do not
23 ask me to do that or rephrase a question, I am
24 going to assume you understand my question,
25 understood?

1 A. Okay.

2 Q. I understand that you are not
3 comfortable proceeding today in English, is that
4 correct?

5 A. Yes, yes, that's right.

6 Q. And we have a French interpreter
7 here for your convenience.

8 A. Thank you.

9 Q. I will be discussing often today
10 Artesia Bank. I may use the term Artesia Bank and
11 when I do that I mean to refer to Artesia Bank
12 Incorporation and I mean to also include its
13 predecessor bank, Bacob Bank and Bank Paribas, is
14 that understood?

15 A. Yes.

16 Q. So if I use the term 'Artesia
17 Bank' or 'bank', I am referring to Artesia Bank and
18 its predecessor, is that understood?

19 A. Yes.

20 Q. And if I want to be more
21 specific as to a particular predecessor I will
22 specify, understood?

23 A. Okay.

24 Q. I will also be referring to
25 Lernout and Hauspie Speech Products NV, a former

1 client of Artesia Bank, and when I do that I may
2 refer to them as 'L&H' or 'Lernout and Hauspie', is
3 that understood?

4 A. Yes.

5 Q. Mr. Janssens, did you prepare
6 for your deposition for today?

7 A. Yes.

8 Q. How did you do that?

9 MR. BUTLER: Let me just caution the
10 witness that you can explain who you met with and
11 when we met but you should not talk about the
12 substance of any of our conversations.

13 A. I met with our two lawyers who
14 are here today yesterday for about four hours.

15 MR. ROCCO: Was that the only time
16 you met with attorneys to prepare for your
17 deposition?

18 A. Yes.

19 Q. Did you review any document in
20 preparation for your deposition?

21 MR. BUTLER: Once again, that is a
22 'yes' or 'no' question?

23 A. Yes.

24 MR. ROCCO: When did you do that?

25 A. Yesterday.

1 Q. Was there any other time you
2 reviewed document to prepare for this deposition?

3 A. No.

4 Q. Do the documents that you
5 reviewed yesterday help you to recall any of the
6 facts that are in issue in this law suit?

7 A. Yes.

8 Q. Can you generally describe for
9 me which documents helped you to recall facts?

10 A. Reviewed the document from - I
11 reviewed the documents coming from the hearing by
12 the Belgian federal police as well as internal bank
13 documents that were used as part of the
14 decision-making process for the credits.

15 Q. Did you attempt to review
16 documents for all of the loans on which you had
17 some involvement that related to Lernout and
18 Hauspie?

19 MR. BUTLER: I object to the form of
20 the question, but the witness can answer.

21 A. The answer is no.

22 MR. ROCCO: Why not?

23 A. I did not think it was
24 necessary.

25 Q. Why didn't you think it was

1 necessary?

2 A. My personal opinion.

3 Q. What was the basis for your
4 personal opinion?

5 A. I just repeat that it is
6 personal opinion.

7 Q. Did you believe it was important
8 to be versed in the facts that are alleged in
9 complaint in this matter?

10 MR. BUTLER: Can I just ask for
11 clarification - do you mean for the purpose of this
12 deposition?

13 MR. ROCCO: Yes.

14 MR. BUTLER: Did he have a personal
15 opinion about how he should prepare, is that the
16 question?

17 MR. ROCCO: No. My question is my
18 question, Jeff.

19 MR. BUTLER: (To the interpreter) Why
20 don't you interpret that.

21 INTERPRETER: Can you repeat exactly
22 the clarification you requested just in the same
23 terms.

24 MR. ROCCO: Can you ask the question
25 as well.

1 (Record read)

2 MR. BUTLER: Let me just object for
3 the record to the form of the question, but the
4 witness can answer if he can.

5 A. I don't understand the question.

6 MR. ROCCO: Are you aware of
7 allegations that have been made against the bank in
8 this case?

9 A. Yes, I think so.

10 Q. Do you feel any obligation to
11 familiarise yourself with the facts that are at
12 issue in this law suit in order to give complete
13 testimony here today?

14 MR. BUTLER: Objection to form.

15 MR. ROCCO: You can answer.

16 A. I do not wish to answer.

17 Q. There is not a basis on which
18 you can refuse to answer that question, so I am
19 going to have to insist that you do answer.

20 MR. BUTLER: Can I hear the original
21 question again please.

22 (Record read)

23 MR. BUTLER: Mr. Janssens, if you
24 have an opinion about that, you can feel free to
25 answer.

1 MR. ROCCO: I haven't asked for an
2 opinion, I asked him if he had an obligation.

3 MR. BUTLER: I am to trying help you
4 Pat because he did not understand the question.

5 MR. ROCCO: He did not tell me he did
6 not understand my question, Jeff. If you are going
7 to coach the witness, this is going to be a very
8 short deposition before we go to the magistrate.

9 MR. BUTLER: Let me just say, he did
10 say he did not understand your question. I am just
11 trying to help. I can lodge my objections if you
12 don't want me to try to help. If this man
13 understands your question, then I won't do that.

14 MR. ROCCO: He has not said he did
15 not understand my question. Now that you have
16 coached him, perhaps he will.

17 MR. BUTLER: I am not trying to coach
18 the witness.

19 MR. ROCCO: You obviously are, Jeff,
20 and it's intolerable.

21 MR. BUTLER: Once again I state my
22 objection for the record and you can answer the
23 question, you can have it repeated.

24 (Record read)

25 A. I left the bank over six months

1 ago, but my answer to that question would be 'yes',
2 but I would like to nuance this by saying that I
3 have no contact with the bank, so my possibilities
4 of being perfectly aware of everything are more
5 restricted than in the past.

6 Q. Do you currently receive any
7 compensation from Dexia Bank?

8 A. No.

9 Q. Do you have any consulting
10 arrangement with the bank?

11 A. No.

12 Q. Have you been offered any pay
13 for appearing for your deposition or preparing for
14 the same?

15 A. No.

16 Q. Do you know who is paying for
17 your attorneys who are representing you here today?

18 A. Dexia Bank.

19 Q. Have you retired from the bank,
20 sir?

21 A. Yes.

22 Q. During your tenure with Artesia
23 Bank can you tell me what the official language, if
24 any, there was for the bank?

25 A. I spent more than ten years in

1 the bank but there are two official languages -
2 French and Dutch.

3 Q. And did you converse in both
4 languages when you would prepare or communicate in
5 documents with your co-workers at the bank?

6 MR. BUTLER: Objection to form.

7 MR. ROCCO: You can answer.

8 A. The answer is yes, and it was a
9 mix of both languages.

10 Q. So, sir, are you comfortable
11 reading and understanding Dutch documents?

12 A. Yes.

13 Q. And you are of course
14 comfortable in French as well, is that correct?

15 A. Yes.

16 Q. Do you read and comprehend
17 English?

18 A. Yes.

19 Q. Did you have occasion to
20 communicate in English at any time while you worked
21 for Artesia Bank?

22 A. Is this question relating to
23 Lernout and Hauspie or is it more general?

24 Q. It is general, sir.

25 A. The answer is 'yes', but quite

1 rarely.

2 Q. Yesterday when you prepared with
3 your for attorneys from Clifford Chance what
4 language did you use?

5 A. English.

6 Q. And did you meet with only the
7 two lawyers from Clifford Chance that are seated
8 here today from the New York office?

9 A. Yes.

10 Q. I would like to find out a
11 little bit about your job history with the bank. If
12 you could tell me when you first became employed by
13 either Artesia Bank or any of its predecessors?

14 A. I started employment with
15 Paribas in 1972, and for several years I was in
16 sales functions up until about 1989 when I became
17 head of credit for Paribas again. Then in 1998 with
18 the merger of Bacob and Paribas, I became head of
19 credit at Artesia up until the end of 1999.

20 Q. After 1999 did you maintain a
21 position with Dexia Bank?

22 A. Yes.

23 Q. What positions did you hold with
24 Dexia Bank?

25 A. Between 2000 and 2002 I was risk

1 advisor in corporate banking and between 2002 and
2 2005 I was delegated director for a subsidiary
3 which is called Parfibank up until my retirement.

4 Q. When exactly was your
5 retirement, sir?

6 A. September 2005.

7 Q. Did you retire with a pension
8 from the company?

9 A. Yes.

10 Q. I would like to go back to your
11 position as the head or director of credit of
12 Paribas Bank from 1989 up to the merger between
13 Bacob and Paribas. Can you please describe your
14 duties and responsibilities in the position as the
15 head of credit at Paribas Bank?

16 A. It had to do with managing
17 credit risk for companies and individuals although
18 this was a small part of the business at Paribas
19 Bank; also the counter party risk for banks, so on
20 the one hand I had to - I was in charge of
21 supervising the preparation of the documents to be
22 submitted to the loan committee that was the
23 decision-making body, the loan committee was the
24 one granting new credits. I was in charge of
25 personally surveying the files, the documents, and

1 then of presenting them to the committee, and in
2 the majority of cases of suggesting a decision to
3 the committee. On the other hand I was also
4 responsible for supervising the execution of
5 decisions, that is the drafting and the
6 implementation of credit contracts. I also
7 supervised the evolution of the credits throughout
8 the lifetime of the credit.

9 Q. I am not sure I understood which
10 part of your practice at Paribas was a small part
11 of the bank practice. Could you please explain
12 that?

13 A. I just wanted to say that there
14 were few credits for individuals in our bank.

15 Q. So Paribas was more concerned
16 with corporate clients, is that correct?

17 A. That's right.

18 Q. Did you sit on any Credit
19 Committee during your time at Paribas?

20 A. Yes, I think I said it in my
21 previous answer.

22 Q. Could you tell me which Credit
23 Committee you sat on?

24 A. Several, of course. I was in
25 the management committee, which is the one dealing

1 with the biggest credit, the biggest in terms of
2 the month. I was also in the committee just below
3 this management committee, that is the lower
4 committee, the second tier committee. Both
5 management committee and this lower committee had
6 one weekly session. And I also had a third
7 committee that is below the second tier committee,
8 and there were twice weekly sessions.

9 Q. Do you recall the money amount
10 for the loan at each level of the three committees?

11 A. These amounts have varied over
12 time, but talking about between 95 and 98 roughly.
13 The third tier committee, so the lowest committee,
14 was 100 million Belgian Francs, the second one was
15 up to 300 million Belgian Francs, and the
16 management committee was anything over 300 million
17 Belgian Francs.

18 Q. In your function as the head of
19 credits at Paribas Bank, did you both present
20 proposals to the Credit Committee and approve them
21 as a member of the Credit Committee?

22 MR. BUTLER: Objection to form.

23 A. I can answer to this question.
24 So for committees 2 and 3 I am involved in the vote
25 but I am not the one who presents the case, and for

1 the management committee I am the one presenting
2 the case but I do not vote.

3 Q. Directing your attention to the
4 last year of Paribas prior to the merger with
5 Bacob, can you tell me who worked for you in your
6 role as director of credits?

7 A. I am not too sure about the
8 number of people, but there must have been between
9 60 and 70 different people.

10 Q. Generally what were the titles
11 of those 60 or 70 people?

12 MR. BUTLER: Objection to form of the
13 question.

14 A. There are several levels of
15 responsibility and of know how. There were
16 director assistants, I think there were about five
17 of them called heads of credit secretariat, and
18 they had people working for them. There are two
19 categories of people working for them - the credit
20 analysts. They were the ones who prepared the
21 files and who looked at the risk analysis; I think
22 I talked earlier about the supervision part of my
23 job. And the other category of people were the file
24 managers, they were the ones in charge of the
25 material preparation of the credit files before and

1 after the decision of credit was made.

2 MR. ROCCO: Do you recall in the
3 period 1997 to 98 who the credit secretariats were
4 at Paribas?

5 A. Some of them, yes.

6 Q. Could you tell me the ones you
7 remember?

8 A. Van der Vei, Lequarre, Nossent,
9 Steverlynck, and for the other names I don't recall
10 them right now.

11 Q. And all these credits
12 secretariats reported to you, is that correct?

13 A. Yes.

14 Q. Could you tell us what the
15 responsibilities were of the credit secretariat
16 during this time period of 97 to 98?

17 A. So each one for the portfolio
18 that the person manages has the responsibility on
19 the one hand of studying applications and of
20 preparing files for the decision of the committee,
21 and on the other hand to carry out the decisions of
22 the committee, that is to implement the credits
23 that were granted and to manage the same credits
24 through their lifetime.

25 Q. And did the credit analysts

1 report to the credit secretariats?

2 A. Yes.

3 Q. In the years 1997 to 98 to whom
4 did you report at Paribas?

5 A. In 97/98 I think it was Phillip
6 Romagnoly.

7 Q. And after Mr. Romagnoly to whom
8 did you report?

9 A. We are talking after 98 and we
10 are talking about Artesia?

11 Q. That is correct.

12 A. It was Mr. Piret.

13 Q. Did you begin reporting to Mr.
14 Piret as soon as the Bacob Paribas merger was
15 agreed to - withdraw that question. Did you begin
16 reporting to Mr. Piret after the merger between
17 Bacob and Paribas?

18 A. Yes, but it is little bit
19 complicated, because the acquisition of Paribas
20 Bacob occurred in 1997 but the merger did not come
21 until 1998, and between acquisition and the merger
22 I still reported to Mr. Romagnoly, and after the
23 merger in 1998 I reported to Mr. Piret.

24 Q. Did you report to anyone else
25 after the merger was completed?

1 A. The answer is 'no' as the head
2 of global credit risk, but when I changed position
3 to become risk advisor of corporate banking, the
4 answer is 'yes', I reported to Geert Dauwe.

5 Q. Did your responsibilities change
6 as the director of credits once the Paribas Bacob
7 merger was completed?

8 A. Yes. In addition to my existing
9 responsibilities I was also in charge of managing
10 the Bacob credit risk, that is the credit risk of
11 the portfolio of Bacob, which became a part of the
12 Artesia portfolio, and I was also managing the
13 credit risk of Bacob subsidiaries.

14 Q. What were the Bacob
15 subsidiaries?

16 A. There was a US subsidiary but I
17 cannot find the name right now (in Seattle) that
18 dealt mostly with the real estate loans. There was
19 one in Belgium that worked in leasing. There was
20 also factoring subsidiary, and at the time of the
21 merger we bought two subsidiaries, one in France
22 and one in the Netherlands.

23 Q. After the merger between Bacob
24 and Paribas, did the position of the credit
25 secretariat remain?

1 A. Yes.

2 Q. Did the responsibilities of the
3 credit secretariat remain the same as you described
4 them for Paribas?

5 A. Yes.

6 Q. In your role as director of
7 credit of Artesia Bank, did you have any regular
8 contact with customers of the bank?

9 A. I didn't have any regular
10 contact with customers, but I could occasionally
11 have contact with the customer.

12 Q. How about the credit
13 secretariat, would they be in regular contact with
14 the bank's customers?

15 A. They were in contact with
16 customers but I would not say in regular contact,
17 because the contacts were not really frequent.

18 Q. Could you tell me how frequently
19 the contacts were between the credit secretariat
20 and clients?

21 A. It is difficult to answer this
22 question. I would say it was really on a case by
23 case basis. I would say that the general criterion
24 for having more contacts was when the risk evolved,
25 became more sensitive or more difficult than has

1 been planned.

2 Q. Would it be unusual for a credit
3 secretariats to be in contact every month with a
4 customer?

5 MR. BUTLER: Objection to form.

6 MR. ROCCO: You can answer.

7 MR. ROCCO: I will rephrase; I
8 withdraw the question. Can you tell me as a matter
9 of weeks or days or months how frequently credit
10 secretariats would be in contact with the customers
11 of the bank under normal circumstances.

12 MR. BUTLER: Objection to form.

13 MR. ROCCO: You can answer.

14 A. I would like to have a precision
15 to really understand what you mean by 'normal
16 circumstances'. We are talking about a credit that
17 goes along as planned with no difficulty
18 whatsoever.

19 Q. Let's do it both ways, sir.
20 First tell me when a credit goes along normally as
21 planned, and then tell me when it does not go along
22 as planned, how frequently the contact would be
23 between a credit secretariat and the customer?

24 A. There is no problem at all. I
25 would say two to three times a year, and otherwise

1 I would say once a month.

2 Q. Does the contact with the
3 customer depend on what type of loan was issued by
4 the bank?

5 A. No, not really.

6 Q. So it's clear, if there was a
7 straight loan versus a revolving minor credit or
8 bridge loan, would it make any difference in terms
9 of the level of contact with the customer?

10 MR. BUTLER: Objection to form.

11 MR. ROCCO: You can answer.

12 A. It seems to me that for a
13 straight loan or revolving loan there should not be
14 any differences in terms of contacts. But for
15 bridge loan, it is a short term loan, so it seems
16 normal that there should be more contact,
17 especially if the maturity date is coming up.

18 Q. Did the credit risk analysts
19 have contact with customers of the bank?

20 A. The character of credit risk
21 analysts is usually such that they do not really
22 like having contacts with customers. However, I
23 encourage them to have a few contacts so that they
24 can have a vision of risk, not just a theoretical
25 law based on accounting. So the answer here is

1 'yes', but the contacts were very few and
2 infrequent.

3 Q. I want to go back a moment to
4 one of the subsidiaries that you mentioned for
5 Bacob. What was the name of the factoring
6 subsidiary?

7 A. Artesia Factors.

8 Q. And can you tell me what the
9 business of Artesia Factors was?

10 A. It is a form of credit based on
11 the portfolio of invoices issued by a customer.
12 The technique is the financing of this portfolio of
13 invoices until they are paid by the debtor. So, as
14 I said, this includes the financing part, but also
15 the management of the accounts payables, and often
16 there is also an insolvency insurance in case the
17 debtor does not pay.

18 Q. I want to switch gears again
19 back to your job history. Were you ever a member of
20 the board of directors for Artesia bank or its
21 predecessors?

22 A. No.

23 Q. Was your position as the
24 director of credits one as an officer of the bank?

25 A. Yes.

1 Q. In the course of preparing loan
2 proposals would you obtain confidential information
3 from clients of the bank?

4 A. Is it a question that is
5 concerning me directly, or are you asking me if the
6 bank received confidential information?

7 Q. I will start with whether the
8 bank received confidential information.

9 A. It could happen, but I do not
10 think it was too frequent.

11 Q. Would the financial data that
12 would be provided by corporate clients of the bank
13 be sensitive data that was confidential?

14 A. I cannot see the relationship
15 with the previous question.

16 Q. Is it true that during the
17 course of the banks processing of loans, they would
18 obtain sensitive financial data from commercial
19 clients?

20 A. We are talking about accounting
21 data?

22 Q. It could be accounting; any kind
23 of financial data.

24 A. I think I answered a question
25 that was quite close to this one. I said that it

1 could happen, yes, that the bank received
2 information from its customer that the customer
3 would consider confidential. It's information that
4 the customer would not want the competition to know
5 about because it would give some idea or some
6 indication of the state of business, or that type
7 of information.

8 Q. And under those circumstances
9 did the bank take measures to make sure that that
10 information from the clients remained confidential?

11 A. First of all the information
12 that was labelled as confidential was not broadcast
13 throughout the bank, it was just told to a limited
14 number of people. Then the confidentiality of this
15 information was underlined to these people who were
16 given the information, and finally the general
17 rules of conduct of the bank is to preserve
18 confidentiality.

19 Q. So the bank recognised that it
20 had a responsibility to preserve the
21 confidentiality of the information that was
22 provided by customers of the bank, is that true?

23 A. Yes.

24 Q. As the director of credit at
25 Paribas Bank during this period 1997 to 98, were

1 you familiar with the loan procedures that were
2 used by the bank?

3 A. I think so.

4 Q. Did credits that were in excess
5 of a hundred million Belgian Francs require the
6 approval of the highest level Credit Committee 1?

7 A. The answer is 'yes'.

8 Q. Was there any exception by which
9 a loan could be approved in excess of 300 million
10 Belgian Francs, for instance, without the initial
11 consent of the highest Credit Committee?

12 A. Yes, there was one emergency
13 procedure. The decision could be made by two
14 members of the management committee or by the
15 president of the bank and myself, and this decision
16 was then to be ratified the following session of
17 the Credit Committee.

18 Q. Who was the president of the
19 bank during this time period 97 to 98?

20 A. Mr. Romagnoly.

21 Q. What would constitute an
22 emergency to justify the use of the emergency loan
23 procedures?

24 A. I could give several examples,
25 but the one that comes to mind is the need to give

1 an answer, because the customer has already
2 received an answer from another bank and cannot
3 wait for our answer.

4 Q. Was Mr. Geert Dauwe a member of
5 the management committee of Paribas during the time
6 period 97 to 98?

7 A. I think so, yes.

8 Q. So as a member of the management
9 committee his signature alone wouldn't be
10 sufficient under the emergency procedures to
11 approve a loan of more than 300 million Belgian
12 Francs, correct?

13 A. That's right.

14 Q. What if the amount were just
15 under 300 million Belgian Francs, what was the
16 procedure under those circumstances in an
17 emergency?

18 A. I am not sure I remember, but I
19 think the approval of two people, one of which was
20 from the management committee and the other being
21 myself, was needed.

22 Q. I want show you what has been
23 mark as Probst exhibit 1 and ask you if you can
24 identify that document (Handed).

25 A. (Perused document) Yes.

1 Q. Do you recognise this document,
2 sir?

3 A. Yes.

4 Q. Can you tell me what it is?

5 A. This document describes two
6 procedures, one which is the emergency procedure we
7 just talked about and the other one which is a
8 procedure for overspanning; so when the amount of
9 the line of credit has been overpassed.

10 Q. This document is dated March 4,
11 1999. My question is whether the same or similar
12 procedures applied to emergency situations prior to
13 this date?

14 MR. BUTLER: Objection to form.

15 MR. ROCCO: I withdraw the question.
16 Are these the same procedures, sir, that applied at
17 Paribas Bank during the time period 1997 to 1998?

18 A. Yes, they are similar
19 procedures. Actually the procedure described here
20 in this document was inspired by the Paribas
21 procedures. So generally speaking they are similar
22 but the amounts have evolved in this document, they
23 are higher, but I could not remember the previous
24 amounts, and I would have to look at this document
25 in more detail.

1 Q. Can you take a look at the at
2 amounts and see if they are the same as they were
3 in 1998 with Paribas Bank?

4 A. For emergency?

5 Q. Yes, correct, please.

6 A. (Perused document) It works in
7 the same way, but of course the amounts here in
8 this document are much higher, which is
9 understandable because from the merger the volume
10 of credits was increased twofold and even more.

11 Q. When a credit ran past its
12 expiration date and had not been paid, what were
13 the procedures for extending the terms of that
14 credit - and I am talking about the time period
15 from, first, 97 to 98?

16 A. Under normal procedures, before
17 an expiration date, there would be an exchange of
18 information with the customer, and the customer
19 would let us know that he cannot comply with the
20 date, the expiration date. Then they would
21 negotiate a new repayment plan that would be
22 presented to the relevant committee before the
23 expiration date; that is the normal procedure.
24 Another situation would be if the impossibility to
25 comply with the expiration date has not been

1 identified early enough, it could be because the
2 client has not said anything about it or because
3 the people from the bank have not been attentive to
4 this. So technically it will be considered as an
5 overspanning, but for the whole amount.

6 Overspanning is usually when you have gone over the
7 credit by a few per cent, so for instance you have
8 100 per cent of the credit and you have maybe 5 per
9 cent, and the five per cent are the overspanning;
10 but here it would apply to the whole amount of the
11 loan. So in this situation we have a special team
12 from the bank assigned to the case, it is an
13 administrative team, which informs the relevant
14 committee, and the committee then has to make a
15 decision. The decision can be to negotiate with the
16 customer, and the committee gives instructions for
17 the negotiations, or it can also be not to
18 negotiate at all but no impose repayment plan to
19 the customer. If this repayment plan is refused,
20 then we arrive at a case of default from the loan.
21 And if it comes to this, the bank take conservation
22 measures and start the procedures.

23 Q. Were these procedures you just
24 described the same that were used by Artesia Bank
25 after the merger?

1 A. Yes.

2 Q. You mentioned an administrative
3 team. Who was on the administrative team at Paribas
4 Bank in the year prior to the merger?

5 A. I forget the names; it was a
6 team with three people but I am sorry I forgot the
7 names.

8 Q. Do you recall the name of those
9 administrative team members after the merger?

10 A. No, because it was partly the
11 same people whose name I forgot.

12 Q. Were you a member of that team?

13 A. No.

14 Q. In situations where the loan
15 expired without adequate notice to the bank and the
16 loan was not repaid, would the Credit Committee
17 that initially approved the loan have to also
18 approve the extended terms of the loan?

19 A. Not necessarily; it is on a case
20 by case basis. The answer is 'yes' if the amount of
21 the expired credit is similar to the amount of the
22 loan that was granted originally, but if there has
23 been partial repayment of the loan, the amount
24 could be lower and hence the decision would belong
25 to a lower level of the committee.

1 Q. In the case where an amount was
2 the same as the initial loan, would the Credit
3 Committee that approved that loan have to also
4 approve the extension of the terms of the loan
5 after it expired?

6 A. Generally yes, but there is one
7 exception. If it is a very short term extension,
8 in order not to overburden the Credit Committee
9 with very minor requests, we would use the
10 procedure to allow overspanning.

11 Q. What would constitute a very
12 short extension?

13 A. Between one week and two to
14 three months max.

15 Q. And in those circumstances where
16 there was such very short extension, who would have
17 to approve that extension?

18 A. It depends on the amount. If it
19 is a significant amount... (Telephone
20 interruption) - if it was a significant amount, it
21 would be me.

22 MR. ROCCO: Do you want to finish
23 this and we can take a break.

24 MR. BUTLER: Fine.

25 A. So to start again. It depends on

1 the amount. If it is a significant amount, it
2 would be me, but if we are talking about one
3 million of Belgian Francs, it could be an analyst
4 or head of secretariat.

5 MR. ROCCO: Now it's a good point to
6 take a break. We have to change the tape anyway.

7 (Break 10.49 - 11.02)

8 MR. ROCCO: Mr. Janssens, in a case
9 of a short term extension of an expired loan that
10 involved an amount in excess of hundred million
11 Belgian Francs, would such an extension require
12 your signature?

13 A. Yes.

14 Q. And if the extension for such a
15 loan of a hundred million Belgian Francs were for
16 more than 3 months, would it require the consent of
17 the Credit Committee that initially approved the
18 loan?

19 A. Yes.

20 Q. And would consent of that Credit
21 Committee have to be given initially before any
22 extension was granted?

23 A. Would you repeat.

24 MR. ROCCO: In such a case where a
25 Credit Committee approval would be required for an

1 extension, would that extension - withdraw. In such
2 a case where a Credit Committee approval was
3 necessary to extend the loan, would that Credit
4 Committee have to rule on the extension before the
5 bank would actually extend the loan?

6 A. Yes, it seeming obvious.

7 Q. What determines when a loan will
8 be treated as a loan in default as opposed to one
9 that the bank is willing to extend?

10 A. It is the financial soundness of
11 the client and the perception the bank has of this
12 financial soundness.

13 Q. And who at the bank will make
14 the determination as to whether to place a loan in
15 default?

16 A. Still talking about 97/98?

17 Q. Actually I would like to know as
18 to Artesia Bank?

19 A. In the majority of cases it
20 would be the Credit Committees, but I think this is
21 something I mentioned in a previous question, when
22 we are talking about credits that had not been paid
23 back by the expiration date and I said that the
24 committee could decide to start the default
25 procedure. So for big amounts for which the

1 initial grant was awarded by the central Credit
2 Committee, so the three level committees, they
3 would be the ones making the decision for default,
4 and for smaller amounts it would be the credit
5 secretariats. But at the time there was no
6 systematic mechanical procedure to put a loan in
7 default.

8 Q. Do you recognise the name Peter
9 Rabaey?

10 A. Yes.

11 Q. Did Mr. Rabaey work in your
12 department?

13 A. Yes.

14 Q. Did you supervise his
15 activities?

16 A. Not directly; he was a credit
17 analyst, he was supervised by his director head,
18 but he was under my responsibility.

19 Q. Do you know who Mr. Rabaey's
20 direct supervisor was in Artesia Bank?

21 A. I think it was Mr. Steverlynck,
22 but I am not sure hundred per cent.

23 Q. Was Mr. Rabaey previously
24 employed by the Paribas prior to the merger?

25 A. Yes.

1 Q. Do you know whether he reported
2 to Mr. Steverlynck during that time period.

3 MR. BUTLER: Objection to form.

4 A. I cannot recall exactly when Mr.
5 Steverlynck became in charge of what we call
6 specialised credits, I am not sure if it was right
7 before or right after merger.

8 Q. I take it you are familiar with
9 a company called Lernout and Hauspie Speech
10 Products NV, correct?

11 A. Yes.

12 Q. During your tenure with Paribas
13 Bank did you deal with any loan involving Lernout
14 and Hauspie?

15 A. Yes, as head of credit.

16 Q. Can you tell me when the first
17 time you became involved in a transaction that
18 involved Lernout and Hauspie?

19 A. I was involved in the start of
20 the relationship between Paribas about Lernout and
21 Hauspie. I am not sure, it might have been in 1992.

22 Q. Do you know how the relationship
23 between Paribas and L&H started?

24 A. No, not really.

25 Q. What is the first matter

1 involving L&H that you were involved with in
2 Paribas Bank?

3 A. The first loan we made to L&H?

4 Q. When was that.

5 A. I just answered that. I think
6 it was in 1992, but I am not sure.

7 Q. Do you know how it was that L&H
8 came to Paribas Bank for a loan in or about 1992?

9 A. No, not really.

10 Q. Do you know who introduced L&H
11 as a customer of the bank?

12 A. I would like precision here. The
13 question 'who', does it have to do with someone
14 from a bank or someone outside the bank?

15 Q. Either.

16 A. In the bank I do not know, I
17 forget. Outside the bank I remember, that Mr.
18 Willaert was not yet with L&H. He was the
19 financial manager of a company that was an old
20 customer of the bank and which we had a big
21 customer relationship, and he was one of the people
22 who introduced us to L&H. Maybe he was not the
23 only one, but he is the only one I know.

24 Q. Is that Nico Willaert that you
25 are referring to?

1 A. Yes.

2 Q. Do you recall what the nature of
3 the first loan was that Paribas extended to L&H?

4 A. It was a short term line of
5 credit, and it was this time to use as working
6 capital, I think the goodwill was pledged, but of
7 course this was 14 years ago. I think we had a
8 pledge on invoices as well, and I believe the
9 amount to have been about 50 million Belgian Francs
10 max.

11 Q. Over the course of the
12 relationship between bank Paribas and Lernout and
13 Hauspie, did you have any occasion to speak to Nico
14 Willaert?

15 A. Yes, once.

16 Q. When was that?

17 A. Ten years ago.

18 Q. What do you speak about with Mr.
19 Willaert in that one conversation, to the extent
20 that you can recall?

21 A. I don't remember very well. It
22 was apparently - it had to do with line of credit,
23 but I cannot really remember which.

24 Q. Apart from the your tenure with
25 Paribas Bank, did you have any other occasion to

1 speak with Mr. Willaert?

2 A. No.

3 Q. Did you have occasion to speak
4 at any time with Mr. Jo Lernout?

5 A. Never one to one.

6 Q. Were there instances when you
7 spoke to him in a group?

8 A. Yes, as part of a conference or
9 something like that.

10 Q. What type of conferences would
11 you attend that Mr. Lernout would be present at?

12 A. Conference in voice technology.

13 Q. How frequently would you attend
14 such conferences?

15 A. Two or three times over a ten
16 year period.

17 Q. Apart from those conferences,
18 were there any other times when you had occasion to
19 speak with Mr. Joe Lernout.

20 MR. BUTLER: Objection to form; you
21 can answer.

22 A. No.

23 MR. ROCCO: Did you ever discuss any
24 of the loans extended or granted by the bank with
25 Joe Lernout?

1 A. No.

2 Q. Have you ever had a conversation
3 with Pol Hauspie?

4 A. Not yet.

5 Q. Do you expect to speak to him at
6 any time soon?

7 A. No.

8 Q. During the course of your duties
9 at Artesia Bank, did you have any occasion to
10 communicate with anyone else at Lernout and
11 Hauspie?

12 A. No.

13 Q. Was there a person at Artesia
14 Bank who was primarily responsible for
15 communicating with Lernout and Hauspie?

16 A. Yes Geert Dauwe.

17 Q. Was there anyone else who was
18 similarly responsible?

19 A. No.

20 Q. Was Mr. Dauwe also the principal
21 point of contact with L&H at Paribas Bank?

22 A. Right before the merger, yes.

23 Q. How about prior to Mr. Dauwe,
24 was there anyone else at Paribas Bank who was the
25 principal person or point of contact with L&H?

1 A. We are talking about 92 to
2 94/95, there was Mr. Wollecamp who was the
3 president of the bank, and he knew them, from the
4 same region as Lernout and Hauspie.

5 Q. Was there anyone else between
6 Mr. Wollecamp and Mr. Dauwe who had the principal
7 responsibility for dealing with L&H at Paribas
8 Bank?

9 A. No.

10 Q. Do you know prior to the merger
11 who at Bacob Bank was the person principally
12 responsible for communicating with L&H?

13 A. No, I do not know precisely. I
14 know that Mr. Bruneel knew them, but I do not know
15 if he was responsible for the relationship at
16 Bacob.

17 Q. Do you know how Mr. Dauwe became
18 the relationship manager for the Lernout and
19 Hauspie account at the bank?

20 A. Yes. He was head of our branch
21 at Courtrai, which is the region L&H is from.

22 Q. Do you know whether Mr. Dauwe
23 had any personal friendship or relationship with
24 any of the principals of Lernout and Hauspie?

25 A. I cannot really answer this

1 question, but what I can say is that he knew them
2 very well.

3 Q. Was there one person in
4 particular at Lernout and Hauspie that he knew very
5 well?

6 A. I think he knew them well both.

7 Q. Meaning both Mr. Lernout and Mr.
8 Hauspie?

9 A. Mr. Lernout and Mr. Hauspie.

10 Q. Are you familiar with a loan
11 that was extended by - withdraw, I had better not
12 use the 'extension' word; I think that's
13 troublesome. Are you familiar with a loan that was
14 granted by Artesia Bank to an entity called
15 Dictation Consortium?

16 A. Yes, I know there was a loan.

17 Q. Were you a member of the Credit
18 Committee that approved the Dictation Consortium
19 loan?

20 A. I think so. It is difficult to
21 answer these questions because there are so many
22 matters and so many committees that it is hard to
23 tell when I was there and was not there. But in
24 the way the bank worked, I was there 80 per cent of
25 committees.

1 Q. Do you have a recollection of
2 serving on the committee that approved the
3 Dictation loan?

4 A. Yes I think so, and I think it
5 was studied several times by the committee.

6 Q. Are you familiar with a loan
7 that Artesia Bank granted to an entity called
8 Brussels Translation Group?

9 A. Yes.

10 Q. Were you a member of the Credit
11 Committee at the bank that granted or approved the
12 loan to Brussels Translation Group?

13 A. I think so. I would like to
14 make the same comment I made for the previous
15 loan: that is that it was presented several times
16 to the committee and I am not 100 per cent sure I
17 was there for each presentation.

18 Q. Are you familiar with a loan
19 that Artesia Bank granted to an entity known as
20 Radial Belgium NV?

21 A. Yes.

22 Q. Were you a member of the bank
23 Credit Committee that approved that loan?

24 MR. BUTLER: Objection to form.

25 A. No.

1 MR. ROCCO: You were not a member of
2 the Credit Committee that approved the loan to
3 Radial?

4 MR. BUTLER: Objection to form.

5 MR. ROCCO: What is the objection.

6 MR. BUTLER: Because the real loan,
7 the original loan, was not approved by the credit
8 committee, so the question is confusing. Perhaps
9 you can ask about extension.

10 MR. ROCCO: That is a fair point. I
11 will withdraw that initial question.

12 A. I couldn't be a member of a
13 non-existent committee.

14 Q. Were you a member of the Credit
15 Committee that at some point considered the loan
16 that was granted to Radial Belgium NV?

17 A. Yes.

18 Q. Are you familiar with a loan
19 that Artesia Bank granted to an entity called
20 Language Investment Company NV?

21 A. Yes.

22 Q. Were you a member of the banks
23 Credit Committee that approved the loan to Language
24 Investment Company NV?

25 A. Yes.

1 Q. Are you familiar with a loan
2 that Artesia Bank granted to Gaston Bastiens for
3 approximately 25 million US dollars?

4 A. Yes.

5 Q. Were you a member of the bank
6 Credit Committee?

7 A. Yes.

8 Q. Were you member of the bank
9 Credit Committee that approved the loan to Gaston
10 Bastiens?

11 A. No.

12 Q. Did a Credit Committee at the
13 bank ever approve a loan to Gaston Bastiens?

14 A. Yes I think so.

15 Q. And you were not a member of
16 that committee, is that correct?

17 A. That's right.

18 Q. Do you know which committee at
19 the bank approved the loan to Gaston Bastiens?

20 A. If I am not mistaken, it's the
21 management committee.

22 Q. Were you ever a member of the
23 management committee?

24 A. Yes and no. I already answered
25 this question, but I also explained that at the

1 management committee I was presenting new matters
2 but I did not vote. But I was on vacation the day
3 the Bastiens loan was decided.

4 Q. Were you responsible for
5 presenting to the loan committee the Bastiens loan?

6 A. It is difficult to be
7 responsible for a presentation when you are not
8 there.

9 Q. But the presentation would
10 involve assembling the document that would formally
11 be given to the committee, would it not?

12 A. Yes, if that is what you mean by
13 my presentation. But let me remind you I was on
14 vacation, so I didn't see Mr. Bastiens' file before
15 it was presented to the management committee.

16 Q. How long before the presentation
17 to the management committee did you go on vacation?

18 A. My diaries are in the archives
19 of the bank, and so here I can say that I believe
20 that the Bastiens' file was presented in the first
21 week after I went on vacation.

22 Q. Prior to going on vacation did
23 you work on preparing information for consideration
24 by the Credit Committee regarding the Bastiens
25 loan?

1 A. I should say no, I haven't
2 worked on it like you said, but this Bastiens loan
3 was presented to the level 2 committee before I
4 went on vacation.

5 Q. Did you work on preparing the
6 presentation to the level 2 Credit Committee for
7 the Bastiens loan?

8 A. No, I did not work on the
9 presentation, but studied the file that was
10 presented to the level 2 committee.

11 Q. In your absence, who was
12 responsible for presenting the Bastiens loan to the
13 higher level Credit Committee - and I mean the
14 management committee when I say 'higher level'?

15 A. The person I reported to, that
16 is Mr. Piret.

17 Q. Did anyone from your department
18 who served under you assist Mr. Piret in that
19 presentation?

20 A. I do not really know.

21 Q. Are you familiar with a loan
22 that Artesia Bank granted to Mr. Lernout, Mr.
23 Hauspie and Mr. Willaert for approximately 20
24 million dollars in 1999?

25 A. Yes.

1 Q. Were you involved in presenting
2 that loan for consideration to the management
3 committee?

4 A. I think so, yes.

5 Q. And is it true, because you
6 presented that loan to the management committee,
7 you did not partake in the decisions of that loan -
8 of granting that loan?

9 A. Yes, that's right, in as much as
10 it was dealt with by the management committee, it
11 was the normal way of handling matters, and it was
12 done in that way.

13 Q. During your tenure at both
14 Paribas Bank and Artesia Bank, did you estimate on
15 how many loans you were involved that were granted
16 to Lernout and Hauspie?

17 A. It is not an easy question, it
18 is complicated to give a precise answer. I
19 remember about ten matters.

20 Q. Would that approximate number
21 include syndicated loans as well in which the bank
22 participated?

23 A. Yes.

24 Q. Could you estimate in rough
25 figures the total amount of money that was granted

1 in those loans to Lernout and Hauspie?

2 A. I never made a precise
3 calculation of this figure. It might sound
4 surprising, but loans evolve, one loan is granted
5 and then reimbursed, and then there is another
6 loan, and there is always, in terms of global
7 exposure on this, a figure that would vary from
8 year to year. So I cannot give you a very precise
9 estimate, but I would say maybe five billion
10 Belgian Francs.

11 Q. Are you aware of what role
12 Paribas Bank played in the initial public offering
13 of Lernout and Hauspie securities?

14 A. This was not my responsibility,
15 and it goes back several years, so it is rather
16 imprecise. I know that we were involved, but I do
17 not know what our role really was. There are other
18 several financial partners; I do not really know.

19 Q. Do you recall that the L&H IPO
20 (Initial Public Offering) occurred sometime in
21 1995?

22 A. If you had asked me the question
23 differently, if you had asked which year the IPO
24 occurred, I would not have been able to answer
25 precisely.

1 Q. So you are not certain as to the
2 year, is that correct?

3 A. Not 100 per cent.

4 Q. Do you know who at Paribas Bank
5 worked on the initial public offering for Lernout
6 and Hauspie?

7 A. There are probably several
8 people, but there is only one name that comes to my
9 mind, Rene' Avonts.

10 Q. From what division of Paribas
11 Bank did Mr. Avonts worked?

12 A. Financial markets.

13 Q. Do you know whether Paribas Bank
14 had a role in any other subsequent public offerings
15 of the securities of Lernout and Hauspie?

16 A. I am not aware of this.

17 Q. It is fair to say that you
18 personally did not have any role in any public
19 offerings of Lernout and Hauspie securities, is
20 that correct?

21 A. That's right.

22 Q. Mr. Janssens, I am going to show
23 you what was marked previously as Mommens exhibit 2
24 (Handed). For the record, that is a document
25 bearing Bates numbers 074667 through 074672, a memo

1 from B. Mommens to P. Faict dated May 14, 1997.

2 Just take a moment, sir, to review Mommens exhibit
3 2 and tell me whether you have seen this document
4 before.

5 A. (Perused document).

6 Q. Do you recognise this document,
7 sir?

8 A. I think I read it at the time.
9 I am not quite certain, but I think so.

10 Q. Did Mr. Faict work in your
11 department?

12 A. No.

13 Q. Did you have any contact with
14 Mr. Faict with respect to the Dictation Consortium
15 file?

16 A. He probably told me about it.

17 Q. Do you know what Mr. Faict's
18 role was with respect to the Dictation Consortium
19 loan?

20 A. He was in charge of the
21 commercial relationship with the Dictation
22 Consortium.

23 Q. So he worked for Mr. Dauwe, is
24 that correct?

25 A. That is correct.

1 Q. Did you have any role in
2 requesting the legal opinion that is set forth in
3 Mommens exhibit 2?

4 A. The synthesis of legal opinion
5 was part of the criteria the committee considered
6 in making its decision.

7 Q. So Mommens 2 was part of the
8 information that was presented to the Credit
9 Committee in order for it to make a decision on the
10 Dictation Consortium loan, is that correct?

11 A. I think the synthesis of this
12 was one of the things that helped make the
13 decision.

14 Q. Who would be responsible for
15 synthesising the information set forth in Mommens
16 2?

17 A. I don't remember.

18 Q. As part of your department's
19 preparation of a loan file for presentation to the
20 Credit Committee, would you typically receive
21 information from the commercial division of the
22 bank?

23 A. Is it a question of me
24 specifically?

25 Q. Yes.

1 A. It could happen, but it was not
2 frequent.

3 Q. How about for your division as a
4 whole as opposed to you personally?

5 A. Could you repeat the question,
6 please.

7 Q. Sure. As part of your
8 department's responsibility for preparing a loan
9 file for presentation to the Credit Committee,
10 would people in your department rely on information
11 provided by people from the bank's commercial
12 department?

13 A. Maybe I can explain what was in
14 the files for a loan. It was part of it that was
15 assembled by the commercial division and another
16 part that was assembled by the credit division. The
17 credit division did the accounts analysis, the
18 commercial division provided the description of the
19 credit application, the justification for the
20 credit. And sometimes the credit risk analysts had
21 objections to the loan, and the commercial division
22 could give first answers to the these objections.

23 Q. Was it the responsibility of
24 your department to synthesise the information from
25 both the commercial department as well as your own

1 department for presentation to the Credit
2 Committee?

3 A. There are two parts of the
4 document presented to the committee, and I would
5 say that the synthesis was the opinion given by the
6 credit division, but it was just an opinion, and
7 the role of the game was to be as objective as
8 possible. And we can say that in a file there was
9 a DA and there was also the defence attorney.

10 Q. What was your understanding of
11 the nature of the business of Dictation Consortium?

12 A. Dictation Consortium was a new
13 company that had been created to develop voice
14 technology - I don't remember which exactly - based
15 on the licence that was sold by Lernout and
16 Hauspie.

17 Q. Is it true at the time that the
18 bank extended the loan to Dictation Consortium,
19 that it was a company without any customers?

20 A. I am not sure there weren't any
21 customers, but if there were customers there were
22 very few.

23 Q. Were you aware that Mr. Mommens
24 had concluded that Dictation Consortium actually
25 had no commercial activity at all?

1 A. I don't remember, but I am not
2 going to challenge this.

3 Q. Did your department perform a
4 financial analysis of Dictation Consortium for
5 presentation to the Credit Committee?

6 A. I do not really know. I guess we
7 were shown the budget for Dictation Consortium and
8 we based our opinion on this, but I do not really
9 remember.

10 Q. Can you tell me generally what
11 type of - withdraw. You mentioned that your
12 department, the credit division, would do an
13 accounting analysis of potential customers of the
14 bank for loans. Can you tell me what that analysis
15 would involve generally?

16 A. We work on the last three
17 balance sheets that had been published, so the
18 earlier balance sheets, we work on the assets and
19 liabilities, and we also look at the operating
20 statement. We look at each item of the operating
21 statement and the balance sheet, and review each
22 item; and anything surprising can figure extra
23 questions asked to the customer at our inquiry.
24 That is the first part. Then we also consult
25 different ratios and we compare them to the

1 standard ratios, and here again this might lead to
2 additional questions if things - if some elements
3 are strange compared with the business sector of
4 the company.

5 MR. BUTLER: I need to take a short
6 break.

7 MR. ROCCO: Yes.

8 (Break 12.15 - 12.23)

9 (Mr. Butler withdrew and Miss Kodner took over as
10 leading counsel for Dexia).

11 MR. ROCCO: Mr. Janssens, in addition
12 to performing an accounting analysis of customers
13 for the purposes of deciding whether to extend a
14 loan to them, did your department also monitor the
15 financial condition of existing clients of the
16 bank?

17 A. Yes.

18 Q. Would that involve reviewing the
19 quarterly and year end financial statements of such
20 a client?

21 A. We have at least a yearly review
22 of the files, and for the files where the quality
23 has decreased, there is a system of quarterly
24 review. Theoretically it is based on quarterly
25 statements. I have to say that in Europe we don't

1 have a very strong habit with quarterly financial
2 statements, so in about 50 per cent of the cases we
3 did this quarterly review without having the latest
4 quarterly statement. And to be very comprehensive
5 here, I would like to say that these files that we
6 reviewed on a quarterly basis (we call them
7 'blinking files'), they represented 3 of 4 per
8 cent of the loans.

9 Q. Did your division - withdrawn.
10 The bank review the quarterly financial statements
11 of Lernout and Hauspie because it was a significant
12 customer of the bank?

13 A. Yes, because it was a big
14 customer in terms of using lines of credit.

15 Q. I want to return for a moment to
16 the Dictation Consortium loan. Is it true that
17 Dictation Consortium on its own did not have
18 sufficient financial resources to support the
19 credit that it was seeking from the bank in 1997?

20 A. Indeed, it was new company.

21 Q. So the bank was only going to
22 extend a loan to Dictation Consortium if some other
23 source would provide security, am I right?

24 A. Yes, that is correct. And you
25 can see this in the decision process that, from the

1 beginning, we looked for outside security.

2 Q. And the bank was also aware that
3 the money that it was going to lend to Dictation
4 Consortium was going to be paid almost immediately
5 to Lernout and Hauspie as fees, correct?

6 A. Yes, I think I remember that.
7 But I have to say that, from what I remember, was
8 the payment was planned but it was linked to the
9 provision of service; so we couldn't really say it
10 was going to be immediate.

11 Q. But, in any event, the bank
12 understood that the money that it was going to loan
13 to Dictation Consortium would go ultimately to
14 Lernout and Hauspie, correct?

15 A. Yes, it was obvious there was
16 customer/supplier relationship between the two. It
17 was quite logical for us to see there was going to
18 be a financial flow between the two.

19 Q. Was it Lernout and Hauspie that
20 presented the opportunity for the Dictation loan to
21 the bank?

22 A. Yes, I am convinced that it was
23 one of the members of the Lernout and Hauspie team
24 that presented the matter, but I do not know who.

25 Q. The bank was also aware that the

1 Dictation transaction was structured in such a way
2 so that Lernout and Hauspie would recognise the
3 money received from Dictation Consortium as revenue
4 on its financial statement, is that correct?

5 A. The bank was aware, I just told
6 you, the bank noticed that there was a
7 client/supplier relationship, and that there was
8 going to be a financial flow in return for service
9 provision.

10 Q. I understand your answer, but my
11 question is a little different.

12 A. If you can repeat the questioned
13 (Record read)

14 A. Our job was to lend money to
15 companies which presented a good project needed to
16 finance. In this specific case the project was
17 presented by people we knew well, with whom we he
18 had developed a relationship that was working well
19 so far, and when we made our decision we were
20 careful about our own interests. That is what we
21 do, we do not deal with our customers interests, we
22 defend our own interests, that is our
23 responsibility, and the customer has to look at his
24 own interest and his own responsibility. So here
25 the question was, is it a good project, believable

1 project? And what we try to do is to assess the
2 reimbursement capacity, and when it is not enough,
3 we seek outside guarantees or securities, and that
4 is what we did in this case. Our goal in this
5 situation was not to help Lernout and Hauspie
6 obtain revenue recognition. So your question, were
7 we aware of this, we just were not thinking about
8 this. I would also like to add that at that time we
9 were not experts in US accounting, so this was not
10 something that was really put forward.

11 MR. ROCCO: I would move to strike
12 that answer as non-responsive. With all due
13 respect, sir, I do not think you answered my
14 question. I am going to pose it one more time.

15 MISS KODNER: Pat, I think the
16 witness is trying to answer your question as best
17 he could.

18 MR. ROCCO: I do not think he has
19 answered it. Isn't it true, sir, that the bank was
20 notified by the accountants and the lawyers in
21 written communications from Lernout and Hauspie
22 that the purpose for the structure of the Dictation
23 loan was so that Lernout and Hauspie could
24 recognise revenue on the proceed that it received
25 from Dictation Consortium?

1 A. Yes, the bank received these
2 documents.

3 Q. And isn't it true that the bank
4 was informed that in order for Lernout and Hauspie
5 to recognise revenue from the Dictation Consortium
6 transaction, it was necessary that Lernout and
7 Hauspie remain totally independent from Dictation
8 Consortium?

9 A. Yes, we were told about that.

10 Q. And isn't it also true that the
11 bank was informed that Lernout and Hauspie could
12 not be involved directly or indirectly in the
13 financing provided to Dictation Consortium in order
14 for Lernout and Hauspie to recognize revenue on the
15 monies it received from Dictation?

16 A. Not only was the bank informed
17 about this, but the bank accepted that the loan
18 that was going to be for Lernout and Hauspie be
19 transferred to Dictation Consortium. And here I
20 would like to go back to my previous answer. I was
21 saying that we looked at the viability of the
22 Dictation Consortium project, and found that we
23 needed outside security for this. And we then
24 found out in the negotiations that it was not
25 possible to have a security given by Lernout and

1 Hauspie because of financial marketing regulations,
2 and also because Lernout and Hauspie wanted to be
3 able to recognise the revenue coming from the
4 service provision to Dictation Consortium under US
5 standards, and this is why we had to find another
6 guarantee than one by Lernout and Hauspie.

7 Q. Is it true that the bank would
8 not have lent to Dictation Consortium if they
9 couldn't find some other guarantee?

10 A. Yes, I think so, indeed.

11 Q. And nonetheless the bank wanted
12 to extend the loan because it was going to be
13 profitable to the bank, correct?

14 A. Yes, generally all loans that
15 are made by the bank have to be profitable, so it
16 was also the case for this one.

17 Q. Do you recall what security was
18 ultimately obtained by the bank for the Dictation
19 Consortium loan?

20 A. I think that ultimately the
21 personal guarantees were obtained.

22 Q. From whom were they obtained?

23 A. Lernout, Hauspie, Willaert I
24 think.

25 Q. Is it true that those personal

1 guarantees were not documented in the letter of
2 credit to Dictation Consortium at the request of
3 Messrs Lernout, Hauspie and Willaert?

4 A. Yes; for the Dictation
5 Consortium?

6 Q. Yes.

7 A. Because there is so many files,
8 but if you are telling me that the personal
9 guarantees are not in the credit documentation on a
10 separate document, it is probably at the request of
11 the personal guarantors.

12 Q. The bank was notified by Lernout
13 and Hauspie auditors KPMG that Lernout and Hauspie
14 could never be held responsible, directly or
15 indirectly or via a security, for the repayment of
16 the financing that would be granted to Dictation
17 Consortium NV, do you recall that?

18 A. Yes.

19 Q. And you - withdraw. And the bank
20 was aware that Mr. Lernout, Mr. Hauspie and Mr.
21 Willaert were senior managers of Lernout and
22 Hauspie, correct?

23 A. Yes.

24 Q. And the bank was aware that Mr.
25 Willaert, Mr. Hauspie and Mr. Lernout were also

1 principal shareholders of Lernout and Hauspie,
2 correct?

3 A. Yes.

4 Q. Isn't it logical that the
5 prohibition that Lernout and Hauspie could not be
6 held responsible, even indirectly for the security
7 on the Dictation Consortium loan, would apply to
8 guarantees offered by the senior management and
9 principal shareholders of the company?

10 A. No, I do not think so; I think
11 it is not applicable. The personal guarantee has to
12 do with personal belongings of the person giving
13 the guarantee and not with the holdings he may have
14 in a company. The fact that in this case the
15 personal belongings were made up by shares in a
16 company has never seemed to be a link for us, we
17 always felt that there were really two separate
18 parts - the private part and the company part.

19 Q. Was the bank concerned when
20 Lernout and Hauspie did not want the outside world
21 to know that Mr. Lernout, Mr. Hauspie and Mr.
22 Willaert were in fact providing the guarantees on
23 the Dictation loan, that it was because they
24 believed it would constitute an indirect
25 involvement by their company (Lernout and Hauspie)

1 in the financing of Dictation Consortium?

2 MR. BUTLER: Objection to form?

3 A. The bank wondered why the
4 request for separate document for personal
5 guarantees was being made. We talked it over at
6 length, but we concluded, as I said in my previous
7 answer, that we felt there was no link; but that is
8 only a question of judgment. We reached the
9 conclusion that their request was unfounded, but
10 maybe, that maybe there was caution there when it
11 was not really required. But we thought accepting
12 this request would do no harm.

13 Q. In fact the bank was informed by
14 Lernout and Hauspie that the reason why they did
15 not want to reveal that Mr. Lernout, Mr. Hauspie
16 and Mr. Willaert were providing personal guarantees
17 on the Dictation loan was because they would have a
18 problem with the US Securities and Exchange
19 Commission, isn't that correct?

20 A. I don't remember this.

21 Q. We will look at some documents
22 hopefully today that will remind you of this. Let
23 me move on for a moment. There were many times
24 that Mr. Lernout, Mr. Hauspie or Mr. Willaert asked
25 the bank to omit from the letters of credit the

1 fact that they were providing some form of security
2 for the loans that were extended by the bank, is
3 that true?

4 MISS KODNER: Objection to form.

5 MR. ROCCO: You can answer.

6 A. I don't understand question.

7 MR. ROCCO: Sir, on the Dictation
8 loan, Mr. Lernout and Mr. Hauspie and Mr. Willaert
9 refused to sign the personal guarantee unless it
10 was done in a side letter and not disclosed in the
11 letter of credit, correct?

12 A. Correct, yes.

13 Q. And the same for Brussels
14 Translation Group, again Mr. Lernout, Mr. Hauspie
15 and Mr. Willaert refused to sign personal
16 guarantees unless it was done in a side letter and
17 not documented in a letter or credit for that loan,
18 correct?

19 A. Yes, probably for Dictation.

20 Q. Again, sir, with the Radial
21 loan, when it came to offering a credit default
22 swap, Mr. Lernout and Mr. Hauspie and Mr. Willaert
23 refused to sign such a credit default swap
24 agreement unless it was not referenced in the
25 letter of credit, correct?

1 A. That is correct.

2 Q. And once again with the Language
3 Investment Company, Mr. Lernout, Mr. Hauspie and
4 Mr. Willaert refused to sign a credit default swap
5 providing a guarantee for that loan unless it was -
6 unless a reference to that credit default swap was
7 omitted from the letter of credit for that loan,
8 correct?

9 A. That is correct.

10 Q. And is it your testimony that at
11 no point during these times when Lernout and
12 Hauspie insisted on secrecy of their guaranteeing
13 loans by the bank, did you believe that they might
14 be trying to circumvent the prohibition that the
15 company (Lernout and Hauspie) could not even
16 indirectly be involved in the security for the
17 transactions that were at issue?

18 MR. BUTLER: Objection to form.

19 MR. ROCCO: You can answer.

20 A. Before you give the answer, I
21 need to change the tape.

22 (Off the record 13.03 - 13.05)

23 A. You have to remember that this
24 occurred over several years actually, over a two
25 year period I think, and during this time we went

1 from using a personal guarantee to using credit
2 default swap, because with time we wondered whether
3 we were right about this indirect link. For the
4 first credits we had assessed that there was no
5 link, not even indirect, but over time we became
6 better informed and we understood that it was a
7 more sensitive topic than we first thought, and
8 this is why we arrived at the credit default swap
9 technique and how we examined it, and the idea was
10 that it was not an external security, it was more
11 like an insurance policy. And it was weaker at the
12 beginning of the two years and this two year
13 period. We corrected because we no longer used the
14 personal guarantee.

15 MR. BUTLER: I think he said 'weaker
16 in our argument'?

17 A. He said what was weaker two
18 years before; so probably in their assessment.

19 MR. ROCCO: Okay. We will take a
20 lunch break

21 (Lunch break 13.06- 14.28)

22 (Mr. Butler resumed conduct of the case on behalf
23 of Dexia)

24 MR. BUTLER: Just for the record, I
25 state that, for the defence, Eline Tritsmans has

1 left and Benoit Allemeersch for Clifford Chance is
2 here; and I am Jeff Butler and I'm back.

3 MR. ROCCO: We will proceed. Mr.
4 Janssens, can I place before you three exhibits
5 that were marked previously at Mr. Mommens
6 deposition. They are Mr. Mommens exhibit 4,
7 Mommens exhibit 9 and Mommens exhibit 7 (Handed).
8 For the record, I will begin with Mommens 4 which
9 is a letter from KPMG dated June 13, 1997 Bates
10 numbered 775003 to 775005. My question to you is
11 do you recognise Mommens exhibit 4?

12 A. (Perused document) No, I don't
13 recall seeing it.

14 Q. (Perused document) Can I direct
15 your attention to the second page of Mommens
16 exhibit 4. The numbered paragraphs at the bottom
17 of the page, there is a reference that says "It
18 seems to us that according to the applicable
19 regulation in the US this transaction should at
20 least have the following characteristics. (1)
21 Lernout and Hauspie Speech Products NV is not at
22 all involved directly or indirectly with the
23 financing of Dictation Consortium NV; and (2)
24 Lernout and Hauspie Speech Products NV can never be
25 held responsible directly or indirectly, or be a

1 security, for the repayment of the financing that
2 would be granted to Dictation Consortium NV" - do
3 you see that?

4 A. Yes.

5 Q. Do you recall receiving that
6 advice during the processing of the Dictation loan?

7 A. I don't recall seeing this
8 document, but I remember having been told of its
9 content.

10 Q. Do you know if this document was
11 provided to the management committee for
12 consideration in deciding whether to grant that
13 loan to Dictation Consortium?

14 A. The content of the documents
15 were provided to the Credit Committee.

16 Q. That would be the contents of
17 Mommens exhibit 4, is that correct?

18 A. Yes, mainly the paragraphs that
19 we have just read.

20 Q. Sir, if I can direct your
21 attention next to Mommens exhibit 9 which, for the
22 record, is a memorandum from Brown Rudnick and to
23 Paribas Bank dated June 5, 1997, bearing Bates
24 numbers 775001 and 775002, and tell me if you
25 recognise that document?

1 A. (Perused document) I have not
2 seen this document, but I remember its content
3 being mentioned.

4 Q. Were the contents of this
5 document mentioned to the management committee for
6 consideration in deciding whether or not to extend
7 the loan to Dictation Consortium?

8 A. I think so.

9 Q. If I can next direct your
10 attention to Mommens exhibit 7 which, for the
11 record, is a document beginning with a fax page "To
12 Paribas", to the attention of Patrick Faict from
13 Carl Demikins, and bearing Bates numbers 6796
14 through 67803. I am sorry, I actually read the
15 wrong Bates numbers - it is to page 6801 - do you
16 recognise that document, sir?

17 A. No.

18 Q. You can set that aside. Mr.
19 Janssens, I show you what has been marked as
20 Janssens exhibit 1, which is a memo from Patrick
21 Faict to the management committee dated August 12,
22 1996. It is also dated August 5, 1996, bearing
23 Bates number 34548 through 34553. Do you recognise
24 this document, sir?

25 A. Yes.

1 Q. Is this a document you received
2 as a member of the management committee of the
3 bank.

4 MR. BUTLER: Objection to form.

5 A. It is a document that was sent
6 to the management committee at the bank.

7 MR. ROCCO: As a member of that
8 committee, did you receive a copy of that
9 document?

10 MR. BUTLER: Objection to form.

11 A. Yes.

12 MR. ROCCO: Is it true that the
13 initial loan proposal regarding Dictation
14 Consortium was one where the bank was to lend money
15 to Lernout and Hauspie directly?

16 A. Yes, that's right, I said it in
17 a previous answer.

18 Q. And the reason why it was
19 ultimately not granted to Lernout and Hauspie was
20 because of the prohibitions that would prevent
21 Lernout and Hauspie from recognising revenue on the
22 Dictation transaction, is that correct?

23 A. No; two reasons to this. The
24 first one was the US financial market regulations,
25 and the second one was the constraints imposed by

1 the US GAP which would not have allowed the
2 recognition of payment for the services provided to
3 Dictation Consortium. This is something I said in
4 a previous answer.

5 Q. In Janssens exhibit 1, sir,
6 there is a reference to an equity kicker. Do you
7 understand what that term means?

8 A. It is part of the remuneration
9 of the bank for the loan granted.

10 Q. And would that remuneration take
11 the form of some granting of stock by the company?

12 A. Yes.

13 Q. If you look at the fourth page
14 of exhibit Janssens 1, it says "There would be an
15 equity kicker to be negotiated with L&HSP and
16 Bacob" - do you see that?

17 A. I cannot find it.

18 Q. If you look at page 34551 under
19 4.3?

20 A. Yes, I see, yes.

21 Q. Do you see that? Does that mean
22 that Lernout and Hauspie would offer some stock as
23 compensation for the proposed loan?

24 A. Yes, in remuneration of the
25 loan.

1 Q. And do you know when the loan
2 was changed to be one that was granted to Dictation
3 Consortium, whether Lernout and Hauspie continued
4 to offer an equity kicker as compensation to the
5 bank for extending the loan to Dictation?

6 A. I do not know.

7 Q. Did Lernout and Hauspie agree to
8 give the bank no cost warrants worth approximately
9 500 thousand dollars as compensation for granting
10 the Dictation loan?

11 A. I have no idea; it was not in
12 charge of negotiating the equity kicker. I was in
13 charge of the quality of credit.

14 Q. Do you know who was in charge of
15 negotiating equity kickers?

16 A. I think I remember it was Greet
17 Dauwe.

18 Q. Would the level of compensation
19 offered on a particular loan be of concern to you
20 in your function as a director of credit for
21 presenting the loan to the Credit Committee?

22 A. It was part of my concern for
23 all files of the bank.

24 Q. But you have no recollection as
25 to whether, as to the loan that was ultimately

1 given to Dictation Consortium, there was any equity
2 kicker provided by Lernout and Hauspie, is that
3 correct?

4 A. That is correct.

5 Q. You can set that exhibit aside,
6 please. Sir, I set before you what has been marked
7 as Janssens exhibit 2. It is a document from P.H.
8 Steverlynck and J. Van Helleputt to J. Janssens
9 dated 6.13.97 bearing Bates number 6813 through
10 6817. Do you recognise this document, sir?

11 A. Yes.

12 Q. Is this a document that you
13 received in or about June of 1997?

14 A. I think so.

15 Q. Is this a format that was
16 typically used at the time?

17 A. I do not really understand the
18 purpose of the question.

19 Q. I rephrase it. What was the
20 purpose of this memo?

21 A. I think that is a working
22 document that was drafted as the file for the loan
23 application was being built, and this document
24 added a D class on the complex operation.

25 Q. And this document related to the

1 loan with Dictation Consortium, correct?

2 A. Yes.

3 Q. Do you recognise the signatures
4 on the last page of the document?

5 A. There are no signatures on the
6 document.

7 A. I am sorry. I have a signature
8 here. You do not have a signature on your copy?

9 A. (Demonstrated document to
10 counsel).

11 Q. Let me see that (Handed) This is
12 not the right copy.

13 MR. BUTLER: Can you just clarify for
14 the record what the witness has said.

15 MR. ROCCO: Yes. I think I presented
16 the witness with a document that appears to be what
17 is in effect a rough translation of the document I
18 meant to hand him by mistake. So he does not have
19 the correct document the look at. So I will keep
20 this marked, but I am going to mark as 2A the
21 original version of the document, which bears the
22 same Bates numbers that I have already identified
23 on the document. (To the witness) Sir, please take
24 an opportunity to review this memo. I would like
25 to know whether the answers you gave with respect

1 to exhibit 2 will be the same for exhibit 2A.

2 Please take your time to review it and let me know.

3 A. Okay.

4 Q. Have you had a chance to review
5 exhibit 2A?

6 A. Yes.

7 Q. Does that appear to be the
8 original version of the document that I showed you
9 as exhibit 2?

10 A. (Perused document).

11 MR. BUTLER: Objection to form.

12 MR. ROCCO: When I say 'the
13 original', I mean a copy of the original. Is that
14 the nature of your objection?

15 MR. BUTLER: No. I just think it's
16 confusing, because the first thing you showed him
17 was a rough translation, it is not the document.
18 For clarity you may just have to re-ask the
19 questions again with the proper document.

20 MR. ROCCO: Sir, is exhibit 2A,
21 Janssens exhibit 2A, a letter you received in or
22 about June 1997?

23 A. Yes.

24 Q. And it relates to Dictation
25 Consortium, correct?

1 A. Yes.

2 Q. And it provides, exhibit 2A
3 provides the factual detail regarding the proposed
4 loan with Dictation Consortium, is that correct?

5 A. Yes.

6 Q. And did you use the information
7 contained in exhibit 2A for the purpose of
8 preparing the proposal for the Dictation Consortium
9 loan to Credit Committee?

10 A. Yes.

11 Q. If you turn to the last page of
12 the exhibit 2A, do you recognise any signatures on
13 that page?

14 A. There is only one signature on
15 the document, and I believe it is Van Helleputt's
16 signature; I am not too sure.

17 Q. Did Mr. Van Helleputt work under
18 your direction during this time period, June 1997?

19 A. Yes.

20 Q. Do you recall that it was Mr.
21 Mommens' view that the construction of the
22 Dictation Consortium transaction was artificial?

23 A. It says so on page 2.

24 Q. If I can direct your attention
25 to the last page of exhibit 2A, under the number

1 paragraph 6, there is a statement that says that
2 "Dictation software project is booked technically
3 and commercially a project of L&H" - do you see
4 that?

5 A. Yes.

6 Q. What did you understand that to
7 mean?

8 A. That the Dictation project
9 relied technically and commercially on L&H.

10 Q. Did the bank considered, when it
11 funded the Dictation Consortium loan, that it was
12 in effect financing an L&H project?

13 A. No.

14 Q. Did the bank count the Dictation
15 Consortium loan as part of the total risk extended
16 to Lernout and Hauspie?

17 A. The language integrated the risk
18 of Dictation Consortium in its global exposure to
19 voice technology.

20 Q. Were there any clients of the
21 bank in global exposure to voice technology that
22 were not related to Lernout and Hauspie?

23 A. I have to say if you are talking
24 about direct link or indirect link?

25 Q. I am talking about any link.

1 A. In this case all voice
2 technology files have some kind of link between
3 them.

4 Q. And are all those files in some
5 ways linked to Lernout and Hauspie?

6 A. One way or the other, yes.

7 Q. Do you see in the last page of
8 exhibit 2A there is a reference to verbal
9 commitment of P. Hauspie - the last line?

10 A. Yes.

11 Q. Did Pol Hauspie make a verbal
12 commitment to provide compensation on behalf of
13 Lernout and Hauspie for the granting of the
14 Dictation Consortium loan?

15 A. I do not know.

16 Q. Do you know what the reference
17 to a 'verbal commitment' by Pol Hauspie is
18 referring to in Janssens 2A?

19 A. I do not clearly remember, but
20 it was something included in my statement with the
21 federal police when I said that I thought it was a
22 moral commitment on the part of Hauspie, Lernout
23 and Willaert, to make sure that the Dictation
24 Consortium credit would go smoothly for the bank,
25 and that L&H would comply with its contractual

1 obligation regarding Dictation Consortium.

2 Q. Mr. Janssens, I place before you
3 what has been marked as Janssens exhibit 3, a
4 document from Ivan De Coen to the management
5 committee dated June 16, 1997 bearing Bates numbers
6 75006 through 75015.

7 A. (Perused document).

8 Q. Do you recognise this document?

9 A. Yes.

10 Q. Is this a document you received
11 in or about June of 1997 as a member of the
12 management committee at the bank?

13 A. Yes.

14 Q. What role did Ivan De Coen play
15 in the Dictation Consortium loan?

16 A. He was one of the commercial
17 negotiators, because he was working in the
18 commercial department along with Mr. Faict.

19 Q. And both Mr. De Coen and Mr.
20 Faict worked under Mr. Dauwe, correct?

21 A. Yes.

22 Q. And what is the purpose of this
23 memo that is reflected in Janssens exhibit 3?

24 A. (Perused document) it is a
25 document that is to be handed to the management

1 committee in support for the application for a line
2 of credit.

3 Q. Would the management committee
4 rely on this document as a basis for making its
5 decision on whether to grant the Dictation loan?

6 A. This document is part of what
7 was given to the management committee to make its
8 decision.

9 Q. If you could turn to page 7 of
10 the document, which is also Bates number 75012. Do
11 you recognise the signature on that page?

12 A. Yes.

13 Q. Is that the signature of Mr. De
14 Coen?

15 A. Yes.

16 Q. Did Mr. Hauspie make a verbal
17 promise to provide - withdraw. Did Mr. Hauspie make
18 a verbal promise that L&H would provide additional
19 compensation to the bank for extending the
20 Dictation Consortium loan?

21 A. When reading this document, yes.

22 Q. Do you know whether L&H provided
23 the additional compensation that is referenced in
24 Janssens exhibit 3 with the granting of the
25 Dictation Consortium loan?

1 A. I have no certainty on this, I
2 do not really know.

3 Q. Is it that you do not recall
4 whether or not that happened?

5 A. No, I think I never knew it
6 happened.

7 Q. Was there a discussion -
8 withdrawn. Did you ever participate in a discussion
9 as to whether Lernout and Hauspie providing
10 compensation for the Dictation loan would violate
11 the requirement that Lernout and Hauspie not be
12 directly or indirectly involved in financing of
13 Dictation Consortium?

14 MR. BUTLER: Objection to form.

15 MR. ROCCO: You can answer.

16 A. Would you repeat the question,
17 please.

18 (Interpreter repeated question)

19 A. I don't remember talks about
20 this topic.

21 Q. To your knowledge did the bank
22 consider whether the fact that Lernout and Hauspie
23 would provide compensation for the granting of the
24 Dictation loan would violate the requirement that
25 Lernout and Hauspie not be directly or indirectly

1 involved in Dictation Consortium financing?

2 MR. BUTLER: Objection to form.

3 MR. ROCCO: You can answer.

4 A. I cannot speak for the whole
5 bank, but from what I know I have never heard that
6 we acknowledged this participation.

7 Q. Doesn't the fact that Lernout
8 and Hauspie would provide compensation on the
9 Dictation loan constitute a direct or indirect
10 involvement by Lernout and Hauspie in the Dictation
11 financing?

12 A. I don't have a personal opinion
13 on this, I am not a lawyer and, as I said, I was
14 not involved in talks on this topic at the time.

15 Q. So you are unable to answer my
16 question?

17 A. That is correct.

18 Q. I will show you next, Mr.
19 Janssens, what was marked as Mommens exhibit 6, and
20 ask you to take look at that please (Handed). For
21 the record, Mommens 6 is a document which cover
22 page is dated 7.3.97, a memo from Ivan De Coen to
23 the members of the management committee, Bates
24 range 74681 to 74686. My first question to you,
25 sir, when you have reviewed the document, is

1 whether you recognise it?

2 A. Yes.

3 Q. Is this a document that you
4 received in or about July of 1997 as a member of
5 the bank's management committee?

6 A. Yes.

7 Q. Was the information contained in
8 Mommens 6 a part of the information that was
9 considered by the management committee in approving
10 the Dictation Consortium loan?

11 A. (Perused document) Yes.

12 Q. Does your handwriting appear
13 anywhere on the document, sir?

14 A. Yes, on page 1.

15 Q. Anywhere else?

16 A. No.

17 Q. There is handwriting on the
18 second to last page. Is that a handwriting you
19 recognise?

20 A. No, it is not mine.

21 Q. I direct your attention to the
22 first page. Can you tell me what handwriting on
23 that page belongs to you?

24 A. In the square here (Indicated).

25 Q. In the middle of the page, is

1 that correct?

2 A. Yes.

3 Q. It is very difficult to read
4 this copy. Are you able to make out any of the
5 handwriting there?

6 A. "Agreement as presented here,
7 except for the - except regarding the licence
8 agreement which will have to be pledged, and the
9 condition that the legal design be approved by Mr.
10 Mommens".

11 Q. And are you able to read the
12 entire portion of your handwritten comments there,
13 or was any illegible?

14 A. I just read it, so it was
15 readable.

16 Q. I was unclear whether you read
17 the entire thing; that was the nature of my
18 question.

19 A. Thank you.

20 Q. I understand that you were able
21 to read the entire passage, correct?

22 A. Yes indeed.

23 Q. There is a credit rating on this
24 first page of Mommens 6 that says '4', do you see
25 that?

1 A. Rating 4, yes.

2 Q. What does that mean?

3 A. It is the rating given by the
4 credit department to a file.

5 Q. And what is the scale, numeric
6 scale, that was used for that purpose?

7 A. It goes from 1 the 7, 1 being
8 the best risk and 7 being default.

9 Q. And does the numeric rating
10 that's assigned to a loan consider all the security
11 that is pledged for that loan?

12 A. Yes, in 1997, yes.

13 Q. Did that change subsequently?

14 A. Several times.

15 Q. If you can look to the second
16 page of Mommens 6, under point 2 there is the -
17 there is a notation that a bridge loan for
18 Dictation Consortium was approved, do you see that?

19 A. Yes.

20 Q. And is that the loan that is
21 proposed in appendix 2 of this document, Mommens 6?

22 A. Yes.

23 Q. I direct your attention to the
24 first page of appendix 2 of Mommens 6, there is a
25 reference that the memo was originally written to

1 you, Jacques Janssens, and then it's crossed out
2 and it says 'management committee' dated 6.24.97,
3 do you see that?

4 A. Yes.

5 Q. Does that signify that this
6 proposal was ultimately made to the entire
7 management committee?

8 A. Yes.

9 Q. Do you see, going back to the
10 second page of Mommens 6 and back to exhibit - I am
11 sorry, point 2.0 at the top, very top of the page,
12 point 2, there is a reference in that - in that
13 point to an 'RO credit', do you see that?

14 A. Yes.

15 Q. Can you explain what 'RO credit'
16 means?

17 A. Roll-over credit; it is a
18 roll-over credit.

19 Q. What is a roll-over credit?

20 A. It is a credit with a fixed
21 duration, usually higher than one year, but it has
22 a floating rate which is revised, depending,
23 monthly or quarterly or yearly.

24 Q. At this time in June of 1997,
25 was Paribas Bank participating to the extent of 50

1 per cent in a consortium roll-over credit for
2 Dictation Consortium?

3 A. (Perused document) Yes.

4 Q. Do you know who the other
5 participants in that consortium for the roll-over
6 credit were?

7 A. Yes.

8 Q. Can you tell me?

9 A. Bacob.

10 Q. Bacob Bank?

11 A. Bacob Bank. It can be
12 surprising, but you have to know that negotiations
13 for this loan started in the mid 96 and the
14 position of Paribas Bank Bacob only occurred one
15 year later. So in 96 we were looking for a partner
16 to share our risk, and we didn't know, we thought
17 that Bacob was a good partner, and we did not know
18 we would end up sharing this risk definitely.

19 Q. The bridge loan to Dictation
20 Consortium that was approved in Mommens exhibit 6,
21 was guaranteed by a personal guarantee of Messrs
22 Lernout, Hauspie, Cloet and Willaert, is that
23 correct?

24 A. Yes.

25 Q. And those guarantees were

1 documented by means of a side letter, is that
2 correct?

3 A. Yes.

4 Q. And those guarantees were not
5 mentioned in the credit agreement which confirmed
6 the bridge loan to Dictation Consortium, correct?

7 A. That is what I think, because
8 there were in a side letter.

9 Q. The reason why Dictation
10 Consortium was seeking a bridge loan was so that it
11 could have money to pay fees to Lernout and
12 Hauspie, so that Lernout and Hauspie could
13 recognise those fees as revenue in time for their
14 quarterly reporting which ended on June 30, 1997,
15 is that correct?

16 MR. BUTLER: Objection to form.

17 MR. ROCCO: You can answer.

18 A. The object of the loan was
19 indeed so that Dictation Consortium could pay a
20 commercial debt that it had vis-a-vis Lernout and
21 Hauspie.

22 Q. And Lernout and Hauspie
23 expressed concern to the bank that if Dictation
24 Consortium did not receive the funds, Lernout and
25 Hauspie could not recognise revenue on the fees to

1 be paid on Dictation Consortium, isn't that
2 correct?

3 MR. BUTLER: Objection to form.

4 A. I do not know if Lernout and
5 Hauspie mentioned their concern about this.

6 Q. Is it true that Lernout and
7 Hauspie informed the bank that they had an
8 outstanding receivable to Dictation Consortium
9 which they needed to pay off to remove it from
10 their quarterly reports for June 30, 1997?

11 MR. BUTLER: Objection to form.

12 MR. ROCCO: You can answer.

13 A. I do not know if Lernout and
14 Hauspie mentioned this.

15 Q. If I can direct your attention
16 to the last page of Mommens exhibit 6 under point 2
17 where it says 'Reason of the bridge loan'.

18 A. Yes.

19 Q. If you see it says under point
20 2, middle of the paragraph "L&H hasn't claimed for
21 Dictation Consortium as a result of the delivery of
22 a mile stone for a total amount USD 4500. The
23 short sellers in particularly pay precise attention
24 to the ratio of outstanding receivables in the
25 quarterly reporting, now as of 6.30.97 for the

1 NSDAQ. Even a small increase will be interpreted
2 as a negative evolution of the quality of the
3 receivables portfolio and can consequently have an
4 immediate negative impact on the stock exchange
5 price. It is consequently important that the
6 outstanding receivable will be paid before 6/30/97"
7 - do you see that?

8 A. Yes.

9 Q. You understand my question?

10 MR. BUTLER: I object. For the
11 record, to the extent you are asking him to adopt
12 your entire translation, I object to that. To the
13 extent you are referring him to a paragraph, I
14 understand.

15 MR. ROCCO: You see what I am talking
16 about in this document, correct, sir?

17 A. I see the paragraph you are
18 talking about.

19 Q. Was the information I read in
20 the paragraph numbered 2.0 'Reason of the bridge
21 loan' on the last page of Mommens exhibit 6,
22 information that was provided to the bank by
23 Lernout and Hauspie?

24 A. Nothing in what I read here
25 allows me to answer 'yes' or 'no'.

1 Q. Do you know whether the
2 information that is referenced in the paragraph
3 number 2.0 'Reason of the bridge loan' on the last
4 page of Mommens exhibit 6 came from?

5 A. No.

6 Q. Regardless of their origin, they
7 are the reasons that were given to the management
8 committee for approving the bridge loan to
9 Dictation Consortium, correct?

10 MR. BUTLER: Objection to form.

11 MR. ROCCO: You can answer.

12 A. This point number 2 was given to
13 the management committee, but nothing tells me that
14 it was given as the reason to authorise the loan.

15 Q. Did the management committee
16 accept that this was a reason for authorising the
17 bridge loan as stated in the numbered paragraph 2
18 on the last page of Mommens exhibit 6.

19 MR. BUTLER: Objection to form.

20 MR. ROCCO: You can answer.

21 A. In as much as the management
22 committee gave its authorisation for this loan, it
23 means that it considered the information given in
24 the paragraph as not impeding the loan
25 authorisation.

1 Q. And do you have any reason to
2 question the accuracy of the reasons that are
3 stated under the number paragraph 2 in the last
4 page of exhibit Mommens 6 in Mr. De Coen's memo?

5 A. No, I have no reason to
6 challenge this information.

7 Q. Do you know whether anyone on
8 the management committee challenged the reasons set
9 forth under numbered paragraph 2 on the last page
10 of Mommens exhibit 6 at the time that the bridge
11 loan for Dictation Consortium was presented and
12 approved by the committee?

13 A. I don't remember.

14 Q. Do you remember anyone objecting
15 to those reasons?

16 A. No, I don't recall that.

17 Q. Mr. Janssens, I am showing you
18 what has been marked as Janssens exhibit 4, a
19 document entitled "Memo for the management
20 committee" dated July 8, 1997 and it's Bates stamp
21 numbered 78029 to 78033 (Handed). Do you recognise
22 this document, sir?

23 A. (Perused document) It is a
24 document I have never seen.

25 Q. Do you know whether this

1 document was sent to the management committee in or
2 about July 1997?

3 A. That is Bacob document. It is a
4 document for the management committee of Bacob. In
5 97 Bacob had already bought Paribas, but as I said
6 earlier the merger only occurred in 1988, so at
7 this time in 97 Paribas was a subsidiary of Bacob,
8 which means that there were two banks and two
9 different management committees. And this document
10 apparently has to do with Bacob's involvement with
11 L&H and Dictation, I think.

12 Q. How can you tell it is a Bacob
13 document?

14 A. Because the person who wrote the
15 document was someone who was at Bacob in 97.

16 Q. Are you referring to Pierre
17 Cordonnier?

18 A. Yes.

19 Q. Did at some point in time Mr.
20 Cordonnier work under your direction?

21 A. That's right.

22 Q. What position did he hold under
23 your direction?

24 A. He was credit analyst in the
25 specialised credit department.

1 Q. When did he begin reporting to
2 you in that respect?

3 A. From mid 98.

4 MR. ROCCO: This might be a good spot
5 to take a five minute break.

6 (Break 15.45 - 16.02)

7 MR. ROCCO: Mr. Janssens, I am going
8 to place before you what has been marked as
9 Janssens exhibit number 5 (Handed). For the record
10 it is two page document bearing Bates numbers 85202
11 to 203 from Pierre Cordonnier to Claude Piret dated
12 August 5, 1997. My questions is, do you recognise
13 this document, sir?

14 A. No.

15 Q. Does this appear to be a Bacob
16 Bank document?

17 A. It is indeed a Bacob document.

18 Q. How can you tell that?

19 A. The author of the document is
20 from Bacob, the person it was sent to and the CC'd
21 person are both Bacob.

22 Q. And was August 5, 1997 a time
23 before the integration of Bacob and Paribas?

24 A. Yes.

25 Q. You can set that aside. Mr.

1 Janssens, is there any bank secrecy rules that
2 apply in Belgium?

3 A. In Belgium there are rules that
4 can be called bank discretion rules, but they are
5 non-banking secrecy rules, so to speak.

6 Q. Do any of those rules require
7 that the bank keep confidential the information it
8 receives from clients?

9 A. It depends which type of
10 information we are talking about. These rules
11 apply when the client requests confidentiality,
12 when he gives information.

13 Q. I would like to switch gear for
14 a moment to discuss BTG, the Brussels Translation
15 Group.

16 Q. You mentioned earlier that you
17 recall that loan, correct?

18 A. Yes.

19 Q. What type of company was
20 Brussels Translation Group?

21 A. I am not sure whether they
22 bought this company; I think so. I think they
23 bought this company, they did not create it, but it
24 has been ten years.

25 Q. We know you say 'they', to whom

1 are you referring?

2 A. The shareholders.

3 Q. Are you speaking of the
4 shareholders of Lernout and Hauspie?

5 A. No; the shareholders of Brussels
6 Translation Group.

7 Q. Do you know what their
8 shareholders were?

9 A. I forgot.

10 Q. Was the structure of the
11 Brussels Translation Group transaction with Lernout
12 and Hauspie similar to the structure of the
13 Dictation Consortium transaction with Lernout and
14 Hauspie?

15 MR. BUTLER: Objection to form.

16 MR. ROCCO: You can answer.

17 A. No, I do not think so. There
18 was no licence purchased.

19 Q. Were there any other
20 differences?

21 A. It is difficult to answer
22 because I do not really remember what the business
23 of Brussels Translation Group was. It is a little
24 difficult to answer that question.

25 Q. Wasn't the Brussels Translation

1 Group formed to develop software that it obtained
2 from Lernout and Hauspie?

3 A. It is possible, yes.

4 Q. Wasn't the purpose of the banks
5 loan to the Brussels Translation Group to pay fees
6 to Lernout and Hauspie in exchange for receiving
7 that software?

8 MR. BUTLER: Objection to form.

9 A. I can only answer as I answered
10 the previous question. I don't recall exactly.

11 MR. ROCCO: Wasn't the purpose of the
12 structure of the Brussels Translation Group
13 transaction so that Lernout and Hauspie could
14 recognise revenue on the fees it received from the
15 Brussels Translation Group?

16 MR. BUTLER: Objection to form.

17 A. Show me the structure so that I
18 can answer the question.

19 MR. ROCCO: Without looking at a
20 document, are you able to answer the question?

21 A. I just asked you for a document,
22 so obviously the answer is 'no'.

23 Q. Mr. Janssens, I have placed
24 before you what has been marked as Janssens exhibit
25 6, which is a multipage document bearing Bates

1 numbers 075028 to 075038, and it is also a memo P.
2 Faict to the management committee dated 9.29.97
3 (Handed). I should also note for the record that
4 when I have been reading Bates numbers both
5 yesterday and today, all the documents that have
6 been marked are with the prefix DBB, noting that
7 they were produced by Dexia Bank Belgium. Do you
8 recognise Janssens exhibit 6, sir?

9 A. It's a document I saw at the
10 time.

11 Q. Is this a document that you
12 received in or about September of 97 as a member of
13 the bank's management committee?

14 MR. BUTLER: Objection to form.

15 A. It is a document that was
16 presented to the management committee, yes.

17 MR. ROCCO: Were you a member of that
18 committee?

19 A. As I said before, I was present
20 in the sessions of the management committee to
21 present the files, but I did not vote.

22 Q. Was this a document that you
23 relied on in preparing the files to be presented to
24 the management committee for the approval of a loan
25 to Brussels Translation Group?

1 A. Yes, I think so.

2 Q. Does reviewing this document
3 help you to recall what the business of Brussels
4 Translation Group was?

5 A. Yes.

6 Q. Is it true that Lernout and
7 Hauspie granted to Brussels Translation Group a
8 software licence to develop software for Lernout
9 and Hauspie?

10 A. That is indeed what I can read
11 in this memo.

12 Q. Is it true that the financing
13 that was to be provided by the bank was going to be
14 used to pay Lernout and Hauspie those licensing
15 fees by Brussels Translation Group?

16 A. (Perused document) Yes, that is
17 correct.

18 Q. You can set that document aside.
19 Mr. Janssens, I show you what has been marked as
20 Janssens exhibit 7, a multipage document beginning
21 with Bates number 4078 to 4088, and the first page
22 is titled "Approval of the credit minutes" dated
23 3.30.98 and 3.31.98. If you could take a moment to
24 review that document.

25 A. (Perused document).

1 Q. Can you tell me what this
2 document is, sir?

3 A. (Perused document) This document
4 was for the management committee so that it will
5 make a final decision for the Brussels Translation
6 Group after several presentations to the committee,
7 in which only temporary or partial decisions had
8 been made; so it was to make a final decision.

9 Q. And does this document reflect
10 that final decision?

11 A. Yes indeed.

12 Q. Did you make the presentation of
13 this loan for Brussels Translation Group to the
14 management committee?

15 A. I don't remember it, but I guess
16 so because I am the one who took note of the
17 decision.

18 Q. Is the information that is
19 contained in the memo that is reflected in Janssens
20 exhibit 7 information you used in presenting the
21 proposal for the Brussels Translation Group loan to
22 the Credit Committee?

23 A. Yes, quite certainly; I don't
24 remember it, but certainly.

25 Q. Is that your handwriting on the

1 second page of exhibit 7?

2 A. Yes.

3 Q. And that would be on document
4 numbered 04079, correct?

5 A. That is correct.

6 Q. Can you tell, from reviewing
7 exhibit 7, what amount the Brussels Translation
8 Group loan was for?

9 A. 14 million US dollars.

10 Q. Is it true that Brussels
11 Translation Group on its own did not have adequate
12 financial resources to just buy a loan to that
13 amount?

14 A. It is completely correct.

15 Q. And for that reason the bank
16 looked for guarantees outside of Brussels
17 Translation Group, correct?

18 A. That is correct.

19 Q. And is it also true that the
20 Brussels Translation Group transaction was similar
21 to the Dictation transaction, in that there were
22 limitation placed on Lernout and Hauspie's role in
23 any financing, so that Lernout and Hauspie could
24 recognise revenue on its dealings with Brussels
25 Translation Group?

1 A. Yes, that is why, that's right,
2 there was a similarity.

3 Q. Is it true that the bank was
4 informed that Lernout and Hauspie could not be
5 liable directly or indirectly, or by means of a
6 guarantee, with respect to the repayment of the
7 financing of the BTG loan?

8 MR. BUTLER: Objection to form
9 (record read)?

10 A. Yes, that is correct.

11 MR. ROCCO: Is it true that the bank
12 was informed that Lernout and Hauspie would
13 recognise as revenue the monies it received from
14 Brussels Translation Group for the development of
15 the software that was being licensed?

16 A. The question you are asking
17 close to the ones that were asked for Dictation; it
18 is true that it is quite a similar situation. I
19 underlined in a previous answer that BTG did not
20 have the necessary resources to have access to 14
21 million dollar loan, which is why the bank looked
22 for outside guarantees. And the number 1
23 guarantee, the biggest guarantee, came from the
24 public authority, was the Brussels region guarantee
25 which covered three fourths of the loan. Obviously

1 without this guarantee the loan would not have been
2 feasible. For the other quarter, we looked for
3 another outside guarantee and we turned to L&H and,
4 there was this problem with the US GAP. It was not
5 a problem for us, but it was for them, and we tried
6 to accommodate them and asked them for counter
7 proposals, and the counter proposal was their
8 personal guarantee. So it is quite similar to the
9 Dictation transactions we talked about earlier. Let
10 me just state that the goal of the bank was not to
11 allow Lernout and Hauspie to solve, so to speak,
12 its problem of revenue recognition, it was to
13 finance a viable project with good hopes of
14 recovering our money, and this is what guided me
15 and probably the committee in examining the
16 transaction.

17 MR. ROCCO: Tape change.

18 (Off the record 16.33 - 16.35)

19 MR. ROCCO: Mr. Janssens, is it true
20 that the personal guarantees that were provided by
21 Messrs Lernout, Hauspie and Willaert on the BTG
22 loan were documented in a side letter?

23 A. Yes, that's right. We talked
24 about this earlier.

25 Q. It is for the same reasons as

1 the Dictation personal guarantee, correct?

2 MR. BUTLER: Objection to form.

3 A. What were the reasons in the
4 Dictation matter?

5 Q. Is it true that - withdrawn. Do
6 you know whether the government guarantee that was
7 supposed to be supplied to the Brussels Translation
8 Group in fact was provided by the Belgian
9 government?

10 A. I think that the government,
11 Belgian government authorised the operation, but I
12 read recently (yesterday) that BTG had not called
13 upon this agreement it had received.

14 MR. ALLEMEERSCH: My translation
15 shows - I didn't hear it said about the
16 government. There is probably some confusion.

17 MR. ROCCO: You can clarify.

18 INTERPRETER: He said "I think the
19 government authorised the operation, but I read
20 recently (actually yesterday) that BTG had not
21 called upon this agreement".

22 Q. When you refer to the government
23 are you referring to the Brussels regional
24 government?

25 A. Yes.

1 Q. What do you mean by the fact
2 that Brussels Translation Group did not call upon
3 the guarantee?

4 A. I mean that it did not call upon
5 this guarantee. That it had the possibility, there
6 was the agreement to implement this guarantee, but
7 it did not carry out the procedure so that it would
8 happen.

9 Q. So as a result of the failure to
10 - withdrawn. So as a result of BTG's failure to
11 call upon the government guarantee, the bank could
12 not look to the government for surety on the BTG
13 loan, is that correct?

14 A. Yes, that's it; of course it
15 didn't exist.

16 Q. Did the bank look for additional
17 security after the BTG failed to exercise the
18 government guarantee?

19 A. I don't remember.

20 Q. You can set that document aside.
21 Mr. Janssens, I place before you a document marked
22 Janssens exhibit 8 which is a memo from Peter Faict
23 to J. Van Der Ven and G.K. Dauwe December 30, 1998,
24 bearing Bates numbers 038268 to 038270 (Handed).
25 If you can take a moment to review that document?

1 A. (Perused document) Yes.

2 Q. Do you recognise this document,
3 sir?

4 A. No.

5 Q. Have you seen it before today?

6 A. No.

7 Q. There is a reference -
8 withdrawn. If you look at the last page of the
9 document, do you recognise the signature of Pete
10 Faict on that page?

11 A. Yes.

12 Q. And looking again at the last
13 page of Janssens exhibit 8, do you recognise the
14 handwriting of Mr. Geert Dauwe on that page?

15 A. Yes.

16 Q. His signature also appears on
17 that page, correct?

18 A. Yes.

19 Q. Is it also his handwriting that
20 says "To be implemented on L&H. Consequently the
21 global risk should not increase; besides,
22 regularise with the team of John Van Der Van, do
23 you see that. That is Mr. Dauwe's handwriting that
24 wrote that, is that correct?

25 A. Yes.

1 Q. Do you have any understanding to
2 what he is referring there?

3 A. It is a request to use 3 million
4 dollar share of Brussels Translation Group loan.

5 Q. Do you know whether the bank
6 took any steps, as a result of the Brussels
7 Translation Group's failure to obtain the
8 government guarantee that was contemplated at the
9 time the loan was approved?

10 MR. BUTLER: Objection to form.

11 MR. ROCCO: You can answer.

12 A. From what I know, new steps were
13 taken but, as I said, I have never seen this
14 document until today. As I said, the regional
15 guarantee was never implemented, but I have to say
16 this loan was rapidly paid back. I do not know the
17 exact schedule from the absorption of Brussels
18 Translation Group by L&H.

19 Q. And is it true that prior to the
20 repurchase of the Brussels Translation Group by L&H
21 the bank was informed by L&H that it would be
22 repurchasing BTG?

23 A. I read this information under
24 item 3 of the document presented here.

25 Q. Do you have any knowledge, apart

1 from this document, that that actually was the
2 case?

3 A. I don't remember.

4 Q. Was the loan that was granted to
5 Brussels Translation Group a roll-over loan?

6 A. Yes, I think so indeed.

7 Q. And as a roll-over credit, did
8 it acquire approvals during the course of the loan
9 for Brussels Translation Group to draw down on the
10 loan?

11 A. Yes in this case, because the
12 guarantee from the Brussels regional government was
13 not in place, so one of the conditions of the loan
14 was not met. So there was need for an approval to
15 draw on the credit.

16 Q. Who needed to approve the
17 withdrawal on the credit under the circumstances -
18 withdrawn. In the event that one of the terms of
19 the loan was not met, who was the person who could
20 authorise a drawdown of the credit?

21 A. For this amount in this
22 situation, it must be the committee who initially
23 granted the loan, who is the one responsible for
24 authorising the withdrawal in this case, and in
25 this case it is the management committee.

1 Q. Are there individuals, apart
2 from the management committee, that could approve
3 the drawdown of a loan when one of the conditions
4 was not met under a loan of this amount?

5 A. It could be done in the
6 emergency procedure we talked about this morning;
7 also by two members of the management committee and
8 with a later ratification by the next session of
9 the committee.

10 Q. Do you know whether those
11 emergency procedures were used to approve the
12 drawdown of any of the credit extended to Brussels
13 Translation Group?

14 A. I do not know but, in reading
15 this document, the first steps that are mentioned
16 here are not part of this procedure. But I do not
17 know if there have been other withdrawals than the
18 ones mentioned in this document.

19 Q. To understand you, is it your
20 testimony that the approvals that are noted on
21 Janssens exhibit 8 do not appear to be made
22 pursuant to the emergency procedures?

23 A. Those were withdrawals made
24 under emergency procedures in which the usual steps
25 were not complied with.

1 Q. Do you know why they were not
2 complied with?

3 A. No, I do not know.

4 Q. And - withdrawn. In fact the
5 bank approved on an emergency basis the drawdown of
6 money on the BTG transaction at the end of June
7 1998, is that correct?

8 MR. BUTLER: Objection to form.

9 A. Yes. Reading paragraph 3 on the
10 first page of the document refers to a withdrawal
11 on 29 June.

12 Q. And that co-incides with the end
13 of the second quarter for Lernout and Hauspie for
14 financial reporting purposes, does it not?

15 A. 29 June corresponds to the end
16 of the quarter for everyone.

17 Q. Was the basis for the emergency
18 approval of the drawdown of the BTG loan on June
19 29, 1998 the fact that Lernout and Hauspie needed
20 to receive the money that would be provided to
21 Brussels Translation Group as fees, so that they
22 could recognise them as revenue before the end of
23 the June 1998 quarter?

24 A. The information I have here does
25 not allow me to answer this question.

1 Q. Based on the fact that he
2 prepared this memo, would you believe that Patrick
3 Faict would have an answer to that question?

4 A. You have to ask him. I have no
5 idea.

6 Q. Do you know the reason why the
7 bank approved on an emergency basis a withdrawal on
8 the BTG line of credit on September 29, 1998 as
9 reflected in Janssens exhibit 8?

10 MR. BUTLER: Objection to form.

11 A. No, I do not know; I cannot
12 answer this question.

13 MR. ROCCO: Is it true that the
14 approvals, both on June 29, 1998 and September 29,
15 1998, for the withdrawal of credit on the Brussels
16 Translation Group loan, were not consistent with
17 the banks policy for emergency procedures?

18 A. For the transaction of the 30
19 December, I have already said that they did not
20 comply with the policies, and it is also the case
21 of the one of the 30 June.

22 Q. Do you know when the bank was
23 first informed by Lernout and Hauspie that it would
24 be repurchasing Brussels Translation Group?

25 A. No, I do not know. It is

1 mentioned in the memo here, but I do not know if it
2 was the first mention.

3 Q. Do you know how Lernout and
4 Hauspie financed the repurchase of Brussels
5 Translation Group?

6 A. No, I do not know.

7 Q. Do you know if Artesia Bank
8 provided any of that financing for the repurchase
9 of Brussels Translation Group?

10 A. I don't remember.

11 Q. When I refer to Artesia Bank, I
12 mean to include both Bacob and Paribas, do you
13 understand that?

14 A. Yes.

15 Q. Mr. Janssens, I have handed you
16 what has been marked as Janssens exhibit 9, which
17 is a memo to R. Avonts and J. Van Der Van from P.
18 Faict and I. De Coen dated June 29, 1998 bearing
19 Bates numbers 027616 to 027619. If you can take a
20 moment to review that document?

21 A. (Perused document).

22 Q. Do you recognise this document?

23 A. No, I think it is the first time
24 I see it.

25 Q. Were you involved in presenting

1 to the management committee a proposal regarding
2 the Brussels Translation Group in March of 1998?

3 A. Yes. I have already answered
4 this question a few minutes ago.

5 Q. I was not sure we had
6 established it was in March of 1998. There is a
7 reference in this document to a presentation before
8 the management committee dated March, 13 1998, do
9 you see that?

10 A. Yes.

11 Q. We looked earlier at a decision
12 that was made and presented at the end of March
13 1998 in Janssens exhibit 7. My question to you is
14 whether - my question to you is whether you were
15 involved in this earlier presentation of March 13,
16 1998?

17 A. I think so.

18 Q. Were you also involved in
19 presenting the Brussels Translation Group matter to
20 the management committee on March 23, 1998?

21 A. For the third time, I am saying
22 yes.

23 Q. Sir, I ask you because they are
24 all different dates, and I need to be clear you
25 presented on each time. Do you know what position

1 Mr. Avonts held at the time this memo of June 29,
2 1998?

3 A. He is a member of the management
4 committee of the bank, and at the time I am not
5 sure, but I think he was in charge of the financial
6 markets division.

7 Q. Do you have an understanding as
8 to why he was an addressee of a memo regarding the
9 Brussels Translation Group loan?

10 A. No.

11 Q. Did you deal with Mr. Avonts in
12 the course of presenting any of the proposals
13 regarding the Brussels Translation Group to the
14 management committee?

15 A. It is possible I was involved
16 with most everybody.

17 Q. Do you recall any discussions
18 you had with Mr. Avonts regarding the Brussels
19 Translation Group?

20 A. No, not any discussion
21 specifically.

22 Q. If you can please turn to the
23 last page of exhibit 9. Do you recognise the
24 signature of Patrick Faict on that page?

25 A. Yes.

1 Q. Do you recognise the signature
2 of Ivan De Coen on that page?

3 A. Yes.

4 Q. And do you recognise the third
5 signature that appears there?

6 A. It is Mr. Van Der Van's
7 signature.

8 Q. And is the handwriting that
9 appears just above Mr. Van Der Van signature also
10 in his handwriting?

11 A. Yes, it is very likely.

12 Q. If you can direct your attention
13 to the first page of Janssens 9, do you recognise
14 the handwriting on that page?

15 A. Ahm, yes.

16 Q. Can you tell me whose
17 handwriting it is that appears after the word
18 "decision" in the middle of the first page of
19 Janssens 9?

20 A. Mr. Avonts.

21 Q. Is that also his signature that
22 appears on the first page of Janssens 9?

23 A. Indeed, yes.

24 Q. Do you know whether the bank
25 ever considered accepting a credit default swap on

1 the Brussels Translation Group loan?

2 MR. BUTLER: Objection to form.

3 A. I cannot answer for the bank,
4 but I have - I did not receive this information
5 within the bank until today when I read it in the
6 document, the exhibit Janssens 8 at point 2.4.

7 MR. ROCCO: So you do not recall,
8 during the course of your duties on the Brussels
9 Translation Group loan, ever hearing of the
10 possibility of using a credit default swap in
11 connection with that loan, is that correct?

12 A. That is correct.

13 Q. I want to switch gears now away
14 from the Brussels Translation Group to another
15 transaction that we briefly touched on earlier. You
16 testified you recalled a loan to Radial Belgium NV,
17 correct?

18 A. Ahm.

19 Q. I am going to refer, for
20 similarity's sake, to 'Radial Belgium' as 'Radial',
21 is that okay?

22 A. Ahm.

23 Q. Can you tell me what was the
24 business of Radial?

25 A. Radial was a new company that

1 had been created in order to develop a new voice
2 technology - I've forgotten which.

3 Q. Do you know what that language
4 development company is?

5 A. It was also a new company that
6 was to develop translation technology in languages
7 other than the ones Lernout and Hauspie were
8 working on.

9 Q. Is it is true that Radial
10 Belgium was going to use the proceeds of the loan
11 it obtained from the bank to pay to the LDCs, who
12 would in turn pay licensing fees to Lernout and
13 Hauspie?

14 A. Radial needed money to finance
15 its business and, taking into account the contract
16 with Lernout and Hauspie, it was obvious that it
17 had a main supplier, which was Lernout and Hauspie.

18 Q. And the bank was aware that
19 money it was going to provide to Radial would
20 ultimately be used to pay fees to Lernout and
21 Hauspie, is that correct?

22 A. The bank was aware that Radial
23 had invoices to pay to its main supplier, and it
24 had requested a loan for the working capital?

25 A. And its main supplier was

1 Lernout and Hauspie, correct?

2 A. Correct.

3 Q. And the bank also knew that
4 Lernout and Hauspie was going to recognise as
5 revenue the monies it received from the LDCs that
6 were funded by the loans provided by the bank to
7 Radial, correct?

8 MR. BUTLER: Objection to form.

9 A. The bank knew it was granting a
10 loan to Radial for working capital, to pay its main
11 supplier.

12 MR. ROCCO: Isn't it also true that
13 the bank was informed that Lernout and Hauspie
14 would be recognising revenue on the money it
15 received from the LDCs that were funded by the loan
16 to Radial?

17 MR. BUTLER: Objection to form.

18 A. Can you repeat the question.

19 (Question repeated by interpreter).

20 A. Since the bank has at the same
21 time loans to Lernout and Hauspie, it also analyses
22 the accounts of Lernout and Hauspie and can see
23 that, in the income, there have been invoices paid
24 by Radial.

25 Q. And wasn't - withdrawn. And

1 didn't Lernout and Hauspie inform the bank that it
2 could not guarantee the loans to Radial, because to
3 do so would jeopardise the company's ability to
4 recognise revenue on monies it received from the
5 LDCs that were funded by Radial?

6 MR. BUTLER: Objection to form.

7 A. I don't remember if Lernout and
8 Hauspie actually told us, but it had already been
9 mentioned in past for transactions which we have
10 said were similar. Indeed we knew that, for Lernout
11 and Hauspie, our client, that there was a problem
12 for the accounting part of the operation, that it
13 was impossible to have a direct link.

14 Q. And the bank also knew it was
15 impossible to have an indirect link between the
16 loan to Radial and Lernout and Hauspie in order for
17 Lernout and Hauspie to recognise revenue, correct?

18 MR. BUTLER: Objection to form.

19 A. That's right.

20 Q. The initial loan that was
21 approved by - withdrawn. The initial loan that was
22 granted to Radial was done outside of the normal
23 procedures at the bank, is that correct?

24 A. That is correct.

25 Q. The loan was approved only by

1 the signature of Geert Dauwe, is that right?

2 A. Yes, that is the case.

3 Q. And Mr. Dauwe did not have an
4 authority alone to approve a loan of the size of
5 the Radial loan, is that correct?

6 A. That is correct.

7 Q. Was Mr. Dauwe ever sanctioned by
8 the bank for approving a loan outside of the
9 banking proper procedures?

10 A. I have not any - I don't have
11 any knowledge of sanctions, but it was not part of
12 my responsibilities to deal with sanctions of
13 members of the management committee.

14 Q. Do you know whether the bank
15 ever conducted an investigation regarding Mr.
16 Dauwe's initial approval of the loan to Radial?

17 A. I have no knowledge of an
18 investigation by anyone in the bank on this topic.

19 Q. Who in the bank would know
20 whether or not Mr. Dauwe was ever sanctioned for
21 approving the initial Radial loan outside of the
22 banks normal procedures?

23 A. Certainly the president of the
24 management committee of the bank, Mr. Bruneel, and
25 maybe the chairman of the board as well; you should

1 ask them.

2 Q. Did Mr. Dauwe continue to
3 function in his normal capacity on the Radial loan
4 after it was discovered by the bank that he had
5 approved the initial loan outside of the bank's
6 normal procedures?

7 A. I did not notice any change.

8 MR. BUTLER: It's 5.30. You should
9 be looking for a good place to break.

10 MR. ROCCO: We can stop here, that's
11 fine, this is a good point.

12 (The deposition was adjourned at 17.31)

13 -----

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CERTIFICATE OF COURT REPORTERS

4

I, Paul Brincau, Accredited Court Reporter, Member
of the British Institute of Verbatim Reporters, do
hereby certify that I took the stenotype notes of
the foregoing deposition, and that the transcript
thereof is a true and accurate record transcribed
to the best of my skill and ability.

10

11

I further certify that I am neither counsel for,
related to, nor employed by any of the parties to
the action in which this deposition was taken, and
that I am not a relative or employee of any
attorney or counsel employed by the parties hereto,
nor financially or otherwise interested in the
outcome of the action.

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PAUL BRINCAU

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EXHIBIT NN

Excerpts From The
April 27, 2006
Deposition of
Philippe Steverlynck

11

1 MR EGAN: Let me try and speed this up this
2 way. Between January 96 and June 1999 do you recall
3 being a director of credit secretary at Paribas?

4 A. I have been in charge of that department and
5 I can imagine it is approximately in that period of
6 time, yes.

12

6 Q. Thank you, sir. I would like to focus now
7 for a moment on your role during the time period you
8 were working as Credit Secretary, you mentioned
9 earlier. What were your duties at that time?

10 A. So this was a new department that has been
11 created at the beginning of that year, January. The
12 purpose was to centralise all the risk advices, credit
13 advices for counterparty related issues for departments
14 that were not active immediately in the different
15 regions in the distribution network, so I think about
16 risks on the banks, risks on the bank as counterparty
17 as well as export finance transactions as well as
18 structured finance transactions and so on.

19 Q. You mentioned it was January of that year,
20 that year being 1996?

21 A. Might be, yes.

22 Q. You also mentioned counterparty related
23 issues, what did you mean by that?

24 A. So we have market issues, market risk issues
25 and you have counterparty related issues, so it is

13

1 especially the counterparty related issues, risks on
2 counterparty, yes.

3 THE INTERPRETER: Lenders -- excuse me,
4 borrowers.

5 MR EGAN: What were your responsibilities in

6 that role?

7 A. My responsibilities in the case are in the
8 first case was to deploy the department, it was really
9 we began from scratch and to look for people to run, to
10 help me to do what they expected from our department,
11 to give the advices. Also to bring the whole
12 procedure.

13 THE INTERPRETER: Start, launch.

14 A. Also to even to write them and to begin
15 them. That was -- the essential, let us say the
16 essential duty we had is to give an advice together
17 with the proposition to Credit Committee.

18 MR EGAN: So were you responsible for
19 getting credit files in order?

20 MR WEIDNER: Objection to form.

21 A. Not really.

22 MR EGAN: Were you responsible for preparing
23 credit memoranda related to proposed loans?

24 A. Not really.

25 Q. As you were head of the department, correct?

14

1 A. I was.

2 Q. Who did you report to?

3 A. To Mr Janssens.

4 Q. That's Jacque Janssens?

5 A. Yes.

6 Q. In 1996 who else was in the Department, who

7 reported to you?

8 A. So I had one guy Joris Van Helleputte, then I
9 had other guys who were more an Administrative
10 department just for registration of long-term loans,
11 but it was pure administrative issue, so it was. There
12 was still my Department but also your Joris only came
13 in the month of March, some months later, so I was
14 alone to start, at the exception of the Administrative
15 department there. Then there was also another guy, a
16 very junior one also, that was Philippe De Culinaere.

17 THE INTERPRETER: Philippe De Culinaere.

18 MR EGAN: What was Mr Van Helleputte's job?

19 A. Mr Van Helleputte's job was, he was to give
20 an advice on the credit requests, credit proposals that
21 had been made by other departments.

22 Q. Would this be advice focused on Credit Risk?

23 A. Yes.

34

23 Q. I would like to mark Steverlynck Exhibit 4.

24 (Marked for identification Steverlynck Exhibit 4)

25 Steverlynck Exhibit 4 is BATES stamped DBB

35

1 00006813 through 6817 and Mr Steverlynck I ask you if

2 you have reviewed this document and ask you if you

3 recognise it?

4 A. Yes.

5 Q. Mr Steverlynck, do you recognise this

6 document?

7 A. It appears to me not to be the first time,

8 but I see that document, yes.

9 Q. Did you draft this document?

10 A. I can't remember, what I know is the way of

11 working was mostly that in the beginning as

12 I explained, I see it is June 97, Joris Van Helleputte

13 wrote --

14 THE INTERPRETER: It is likely that Joris

15 Van Helleputte wrote this.

16 MR EGAN: And this is a June 13th 1997 memo

17 from Mr Van Helleputte and yourself to Mr Janssens and

18 Ivan De Coen D-E, C-O-E-N?

19 A. That is.

20 Q. And at that time Mr Van Helleputte reported

21 to you?

22 A. That is.

23 Q. And you believe Mr Van Helleputte would have
24 prepared this document?

25 A. That is.

36

1 Q. Would he have prepared it at your
2 instruction?

3 A. Not especially on my instruction. They had,
4 I suppose I see it is an advice so it was in evidence
5 because he was the only --

6 THE INTERPRETER: The only member of staff.

7 A. He was my own colleague, so it can happen
8 that he did it automatically on the request also of the
9 credit proposal that has to come to Credit Committee.

10 MR EGAN: Would you have reviewed this
11 document before it was sent to Mr Janssens and Mr De
12 Coen?

13 A. I can't remember.

14 Q. Would Mr Van Helleputte typically put your
15 name on documents without you seeing them?

16 A. This can happen.

17 Q. Do you recall it happening with this
18 document?

19 A. I don't.

3 Q. Do you recall receiving the advice at or
4 around June 1997 in connection with the Dictation
5 Consortium loan proposal that L&H cannot directly or
6 indirectly serve as guarantor for the repayment of any
7 loan granted to Dictation?

8 A. I can't remember, what I have in mind now is
9 the advice to Van Helleputte that he advised to
10 guarantee, that's what I remind, what I have read this
11 morning.

12 Q. So this reminds you of Mr Van Helleputte
13 providing advice regarding guarantee?

14 A. Yes, that is what I am remind to have read
15 this morning on that document.

16 Q. You are referring to Steverlynck Exhibit 4?

17 A. That's it.

18 Q. Where the reference, because of problems with
19 American law?

20 A. No, no. The second paragraph of number six
21 in the advice of Joris. That's all I want to say.

22 Q. So all you recall is the suggestion made in
23 Steverlynck 4 to consider seeking a guarantee from L&H
24 related to Dictation Consortium?

25 A. Yes.

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6 Mr Steverlynck, are you familiar with a company known
7 as the Brussels Translation Group?

8 A. Familiar, yes, I know, I remember the name,
9 yes.

10 Q. While working for Special Credits at the Bank
11 did you work on the Brussels Translation Group loan?

12 A. The name of the Brussels Translation Group
13 seems to me I heard it. I don't know if it was when,
14 if it was in my period when I was in Kortrijk, then it
15 was in my responsibility of the credit in Brussels.

16 Q. Do you have any memory of actively working on
17 any BTG loan proposals?

18 A. In my memory I can't remember any
19 negotiations on this external negotiations on that
20 transaction, so I suppose it was from my activity here
21 in the Brussels department.

22 Q. We will mark Steverlynck Exhibit 8?

23 A. But maybe if I see a date.

24 (Marked for identification Steverlynck Exhibit 8)

25 Q. DBB 125390 through 125404 is a December 3rd

100

1 1998 e-mail with three attachments. Did you receive
2 this e-mail on or about December 3rd 1998?

3 A. I can't remember but I suppose so, yes.

4 Q. Is that your e-mail address?

5 A. That is.

6 Q. And that is the address you received the
7 e-mail at around December 1998; is that correct?

8 A. This has been addressed to me on that date.

9 Q. It is from Mr Van Helleputte to
10 Mr Steverlynck?

11 A. Yes. Mr Van Helleputte -- strike that. He
12 is sending you copies of the BTG loan proposals; is
13 that correct?

14 A. That is correct.

15 Q. Do you know why he was sending these to you
16 in December 1998?

17 A. Not on the basis of this mail, no.

18 Q. Were you involved in a request for an
19 extension or prolongment of credit related to BTG in
20 December 1998?

21 A. I can't remember.

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5 MR EGAN: Mr Steverlynck, still on the
6 Steverlynck Exhibit 8 e-mail from Mr Van Helleputte to
7 you December 3rd 1998, do you believe you received the
8 attachments to this e-mail as well?

9 A. I can't remember, but I suppose so, yes.

10 Q. You have no reason to doubt that you received
11 those attachments?

12 A. No.

13 Q. I can actually represent to you that this
14 e-mail came from what's been designated by Dexia as
15 your files. Can you turn to the second page. If you
16 could turn to the second page of the document, the
17 first page of the first attachment. This is an
18 October 7th 1997 memo from P Faict and Mr Van
19 Helleputte to the Management Committee for a draft of
20 that. Do you see that document?

21 A. I see this document here, yes.

22 Q. Who is Mr Faict?

23 A. Mr Faict was that moment a corporate banker
24 in the Brussels region.

25 Q. Would it be typical for a corporate banker

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1 and somebody from Credit Risk to prepare a joint memo
2 to a Management Committee?

3 A. It could happen. I see what I see, it could
4 happen, yes.

5 Q. If you could look down to the section marked
6 2.1 heading "impossibility of having our entire risk
7 covered by L&H under US GAP", do you see that section?

8 A. I see.

9 Q. And the first sentence under that, does that
10 state that:

11 "We can safely say that this credit should
12 be used to finance the machine translation project
13 within L&H."

14 A. That's what I read here.

15 Q. From that you understand that BTG would be
16 involved in transactions with Lernout & Hauspie?

17 A. Because of what I read here.

18 Q. Did you understand that BTG was a customer of
19 Lernout & Hauspie's?

20 A. That's what I am reconstructing, now they are
21 a customer, yes.

22 Q. If you look at the first line of the second
23 paragraph under 2.1, the last section on that page?

24 A. Yes.

25 Q. Does this memo indicate it would be

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1 imperative that L&H would exclude itself entirely from
2 the loan transaction so that they could book the monies
3 needed for this project as revenue?

4 A. What is stated here is --

5 THE INTERPRETER: For this it would seem

6 recommended, it would seem appropriate.

7 A. That's what I read here.

8 MR EGAN: If you can turn to the next page
9 where there is a series of bullet points. The first
10 bullet point, does that instruct that L&H can in no way
11 directly or indirectly be involved with the financing
12 of the BTG?

13 A. I don't know if it's, I should see if what I
14 am reading here is L&H is not involved nor directly nor
15 directly in the financing of BTG. That's what I read
16 there.

17 Q. Based on the preceding page that is a
18 requirement imposed by the regulations for the
19 regulations of the stock authorities?

20 A. That is what I read here.

21 Q. You also see there in the second bullet point
22 that it says:

23 "L&H can never be held responsible not
24 directly nor indirectly nor as securities or guarantor
25 for the repayment of any financing."

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1 A. That is what I read here.

2 Q. And you received this attachment on or about
3 December 1998?

4 A. That is the date here 3rd December 1998.

5 Q. And you have no recollection of being
6 involved in a decision to extend or prolong credit to

7 BTG in December 1998?

8 A. Not on the basis of what I have before me

9 now, no. I can't really remember.

EXHIBIT OO

Excerpts From The
April 19, 2006
Deposition of
Bernard Mommens

143

10 Q. Are you familiar with a
11 transaction known as the Brussels Translation
12 Group?

13 A. I am not sure.

14 Q. Mr. Mommens, I show you what has
15 been marked as Mommens exhibit 11, which is a
16 contract surety or guarantee on Paribas Bank
17 letterhead that is stamped DBB 004377 to 04378. Do
18 you recognise this document?

19 A. No sir.

20 Q. Do you recognise any of the
21 handwriting on this document?

22 A. No I do not.

23 Q. Does seeing this document cause
24 you to recall anything about a loan that the bank
25 issued to Brussels Translation Group NV?

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1 A. No sir.

2 Q. Were you ever asked to offer any
3 legal advice on a loan to Brussels Translation
4 Group NV?

5 A. I don't remember, I was never
6 shown a document saying the opposite; so I don't
7 remember.

8 Q. Do you recall whether anyone on
9 your staff in the legal department was ever asked

10 by the bank to offer legal advice on the Brussels
11 Translation Group loans?

12 A. I cannot exclude it.

13 Q. You don't know sitting here
14 today whether that was ever done?

15 A. No sir.

3 Q. Is it your testimony that you do
4 not recall anything about the Brussels Translation
5 Group?

6 A. Well, it is a name that has been
7 mentioned, but up to now, nor by federal police nor
8 in preparation of this deposition, I was not shown
9 any documents, so I do not know for sure if I saw
10 something about Brussels development or not.

11 Q. But it is fair to say you do not
12 recall having any involvement with that
13 transaction, Brussels Translation Group?

14 A. That is fair to say, yes. Maybe
15 if you have documents, I can try to remember.

1 Q. Did you have any role with
2 respect to Artesia securities at any point in time
3 with the bank?

4 A. No sir, I did not.

5 Q. Did you have any role with
6 respect to Artesia securities at any positions in
7 LHSP securities?

8 A. No sir.

9 Q. Do you know who at this time,
10 1999, would be the person who dealt with those
11 issues?

12 A. I do not know. I should look
13 into the organisation chart in order to answer you;
14 but I do not know.

15 Q. Did you in the legal department
16 ever examine whether or not, at any time while you
17 were in that department, there was any conflict
18 with the Artesia Bank trading in L&H securities for
19 its own account while Artesia securities was
20 issuing its research reports recommending advice on
21 the L&H securities?

22 MR. BUTLER: Can I have that question
23 read back.

24 (Record read)

25 MR. ROCCO: You can answer.

1 A. If I as a lawyer intervened in
2 the question - no I did not.

3 Q. And you were never asked to
4 provide any such advice, is that correct?

5 A. I don't remember ever giving any
6 advice on that issue; I don't remember.

7 Q. Were you ever asked to give any
8 advice with respect to the bank's, Artesia Bank's,
9 relationship with Artesia securities?

10 A. If what respect.

11 Q. In any respect?

12 A. Any respect outside of this -
13 outside of Lernout and Hauspie?

14 A. Ahm.

15 Q. I do not really think so.

16 Q. You don't recall ever doing
17 that?

18 A. No, no.

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6 Q. Were you aware that at some
7 point in time in 1999 Artesia securities was
8 providing analyst coverage of Lernout and Hauspie's
9 stock?

10 A. I was not - I am not aware of
11 that.

12 Q. Is it fair to say that you had
13 no involvement in the affairs of Artesia
14 securities?

15 A. That is correct.

16 Q. Is it also fair to say that you
17 had no involvement in the affairs of Cordius Asset
18 Management.

19 A. 99?

20 Q. 1999.

21 A. That is correct.

22 Q. How about 98?

23 A. No, no.

24 Q. At any time did you have a role
25 with respect to either one of those companies -

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1 Artesia securities or Cordius Asset Management.

2 A. In what period of time?

3 Q. Any time?

4 A. Any time?

5 Q. Yes.

6 A. Now?

7 Q. Including today, yes.

8 A. Cordius became - but I do not
9 know how legally - became Dexia Asset Management.

10 A. Okay.

11 A. And I am a director to Dexia
12 Asset Management at this time.

13 Q. When was your first involvement
14 with Dexia Asset Management?

15 A. Two years ago I think, two/three
16 years ago.

17 Q. It was after the time period in
18 which the bank was dealing with Lernout and
19 Hauspie?

20 A. It was what?

21 Q. After the time period?

22 A. After, yes.

EXHIBIT PP

Excerpt From The
April 26, 2006
Deposition of
François Saverys

19

25 Q. Do you see that the first page indicates that

20

1 at least part of this document is an interview of

2 G Dauwe, if you look at the very first page?

3 A. I don't know.

4 Q. Well, look at the very first page, it is

5 written in interview of GK Dauwe, correct?

6 A. Yes.

7 Q. Does that indicate that this is an interview

8 and meetings, meeting notes of meetings with various

9 individuals?

10 A. I don't know, I don't know how an audit is

11 organised.

12 Q. Do you know if Artesia Securities traded L&H
13 stock at all?

14 A. I don't know.

15 Q. Do you know if Artesia Securities actually
16 prepared analyst reports with regard to L&H stock?

17 A. I don't know. I don't know.

18 Q. Do you know if Paribas did?

19 A. I don't know, they are making a lot of
20 analysts, I don't know if they made special analysts
21 for Lernout & Hauspie.

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11 Q. Let's focus then on the actual Audit Report
12 which begins at DBB 039481 and goes to DBB 039516.
13 This is a report that has a date of 1/19/01, do you see
14 that?

15 A. Yes.

16 Q. It was prepared by the Internal Audit
17 Department of Dexia; is that correct?

18 A. That will be, yes.

19 Q. Pardon?

20 A. Yes.

21 Q. And did you discuss this report with anybody
22 when you received it?

23 A. Afterwards when we received it with the
24 auditors.

25 Q. Who in the Audit Department did you discuss

69

1 it with?

2 A. I don't remember.

3 Q. What about before the Audit Report was
4 actually prepared, did you discuss the subject of the
5 report, which you will see on page one is the Bastiens
6 loan, with anyone?

7 A. I can't remember.

8 Q. You don't know if you were interviewed in
9 connection with the preparation of the Audit Report?

10 A. I can't remember.

11 Q. But you are sure that you discussed this
12 report with one or more members of the Audit Department
13 afterwards?

14 A. Yes, yes.

15 Q. If you look at the top of the second page of
16 the report, DBB 039482, it says the "present report",
17 at the top:

18 "The present report was prepared at the
19 request of the Bank and Finance Committee dated
20 11/29/2000."

21 Do you see that?

22 A. Yes.

23 Q. So the Bank Regulators actually requested
24 this audit to be conducted; is that correct?

25 A. I read it, yes.

70

1 Q. Did you independently understand that this
2 was requested by the Bank Regulators?

3 A. That's what I am reading, yes.

4 Q. It says in the next sentence:

5 "The present report covers the credits
6 directly allocated to the companies of L&H Group
7 including the role of paying agent regarding Consortium
8 credit allocated to LHSP regarding which the Bank
9 currently still has outstanding credits, in particular
10 Bastiens, L&H Speech Products, L&H Investment Company
11 and P Van Driesten.

12 Do you see that?

13 A. Yes.

14 Q. So this pertains to open credits or
15 outstanding credits, correct?

16 A. Outstanding credit risks.

17 Q. Is that correct?

18 A. That is what I read, yes.

19 Q. Then the last sentence in that paragraph
20 reads:

21 "The question whether other files closed as
22 well shows outstanding needs to be submitted to an
23 audit investigation as now posed."

24 Do you see that?

25 A. I see that, yes.

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1 Q. Then below that a little further halfway down
2 the page it says "score"?

3 A. Yes.

4 Q. It says:

5 "We conclude that the internal control within
6 the Bank functioned in an insufficient manner."

7 Do you see that?

8 A. Yes.

9 Q. "Because of time pressure on the file the
10 procedures came under pressure."

11 Do you see that?

12 A. I see that.

13 Q. "In addition if procedures were in place they
14 were applied in an insufficient or unsatisfactory
15 manner."

16 Do you see that?

17 A. Yes.

18 Q. That was the conclusion of Dexia's Internal
19 Audit Group with regard to the Bastiens loan?

20 A. I don't know.

21 Q. Well, perhaps with regard to other loans but
22 it was certainly the conclusion of this Internal Audit
23 report which covered the Bastiens, L&H Speech Products,
24 L&H Investment Company and P Van Driesten loans,
25 correct?

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1 A. That is what I read, yes.

2 Q. Look at DBB 039484. Do you see at the top
3 it says: "L&H Group part Bastiens."

4 A. Yes.

5 Q. And if you were to look back at the first
6 page of the report it says that this is the part of the
7 report regarding Bastiens, do you see that, DBB 039481?

8 A. Yes, I see that, yes.

9 Q. So this discussion that we are looking at,
10 DBB 03389484, relates to the Bastiens loan?

11 A. It looks like.

12 Q. If you look at the first column there are
13 deficiency findings, correct?

14 A. Yes.

15 Q. If you look under, look then at DBB 039486

16 which is a couple of pages over. It says:

17 "Credit proposal two Management Committee

18 7/4/00."

19 Do you see that?

20 A. I see that, yes.

21 Q. So that's actually a decision of the

22 Management Committee on 7/4/2000 regarding the Bastiens

23 loan, correct?

24 A. I don't know.

25 Q. Well, what does that refer to?

73

1 A. I have to read it to give you an answer. It

2 looks to be that.

3 Q. So the Management Committee actually did

4 consider this loan after it was rejected on 6/28/00 by

5 Credit Committee One, correct?

6 A. Yes, correct.

7 Q. And it considered it on or about July 7th

8 2000, correct?

9 A. Pardon?

10 Q. It considered the loan on or about July 7th

11 2000, correct?

12 A. In July 2000.

13 Q. Or on or about July 4th 2000 is when the

14 Management Committee considered the Bastiens loan,

15 correct?

16 THE INTERPRETER: During the course of the
17 month of July.

18 MR WEIDNER: Are you asking him for his
19 direct knowledge or just what it says on the page
20 because it is unclear in the record?

21 MS DYER: You can clarify it if you need to,
22 Jim.

23 Let's go to the past bullet point, 039486, it
24 says:

25 "The decision of the Management Committee

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1 deviates from the opinion provided by the CDC, the
2 reasons hereto are not mentioned in the decision."

3 A. I see that, yes.

4 Q. After the report was issued which we are
5 looking at did you discuss that particular issue with
6 the Internal Audit Department members?

7 A. I don't remember.

8 Q. If you look at the next page, DBB 039487?

9 A. Yes.

10 Q. Do you see where it says:

11 "Credit proposal three Management Committee
12 7/18/00"?

13 A. Yes.

14 Q. So the Management Committee considers the
15 Bastiens loan a second time then; is that correct?

16 A. I have to read it. I see that the credit
17 note is presented to the Committee.

18 Q. And if you look at the second paragraph under
19 that it says:

20 "At the time of the Committee meeting the
21 analyst was on holiday and says that he sent the
22 memorandum to a member of the Management Committee by
23 e-mail on 7/14/00."

24 Do you see that?

25 A. Yes.

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1 Q. It says:

2 "In this e-mail it is stated the credit has
3 been approved by BAN, Bank Artesia Netherlands."

4 Do you see that?

5 A. I see that.

6 Q. So after it is approved by BAN then the loan
7 actually comes back to the Management Committee for
8 consideration, correct?

9 A. I don't know.

10 Q. Well, that's what this states?

11 A. That is what I read there.

12 Q. You were not a member of that Management
13 Committee?

14 A. I was on vacations.

15 Q. That is not my question. You were not a
16 member of that Management Committee?

17 A. No.

18 Q. It says, the next paragraph says:

19 "He" and I assume that refers to the analyst
20 "does not remember very well how long he was in
21 possession of the memorandum by the analyst but he
22 suspects directly from the analyst."

23 THE INTERPRETER: Can I correct the
24 translation, it doesn't say how long he has been in
25 possession, it says he doesn't remember very well in

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1 what way he came into the possession of the note.

2 MS DYER: Is that what it says, Mr Saverys?

3 A. That is what, that is a correct translation.

4 MS DYER: Then the next sentence says:

5 "He remembers that he spoke with Messrs
6 Piret and Saverys and in a mutual consultation it was
7 decided to present the file to the Management
8 Committee."

9 Do you see that?

10 A. I see that, yes.

11 Q. Do you recall having a conversation with
12 Mr Piret and anyone else to make the decision to
13 represent to the Management Committee?

14 A. No, as I was on vacations at that moment.

15 Q. Is it possible you had a conversation by
16 telephone?

17 A. No, I was in Namibia and in Namibia there was

18 no telephone connection.

19 Q. How long were you on vacation?

20 A. One month.

21 Q. What dates?

22 A. The beginning of July, I don't remember the
23 date exactly, the beginning of July up to end of July.

24 Q. Do you know why or who then decided to
25 present the file to the Management Committee on

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1 7/18/2000?

2 A. I don't know.

3 Q. Did you ever ask anyone why?

4 A. I don't know.

6 Q. It says:

7 "A previously approved group file also
8 included a credit allocated in light of nursing the
9 stock exchange price."

10 Do you see that?

11 A. I see that.

12 Q. Do you know what that refers to?

13 A. No. No, I don't know.

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20 Q. Did you ever discuss these conclusions with
21 any members of the Audit Committee?

22 A. As I told you before I had a discussion with
23 the auditor.

24 Q. Did you discuss these conclusions regarding
25 the Bastiens loan?

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1 A. Yes, I will have discussed it. Yes.

2 Q. What did you discuss?

3 A. I don't remember.

25 MS DYER: Let me show you a document we will

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1 mark as Saverys Exhibit 30.

2 (Marked for identification Saverys Exhibit 30)

3 DBB 038305 through 308. I will give Exhibit

4 30 to your counsel and give him an opportunity to

5 review it, I have only one copy. I place before you

6 Saverys Exhibit 30, it is a 3/19/1998 memo from Patrick

7 Faict and John Van Helbut to the Management Committee

8 and it is CCed to you, do you see that?

9 A. Yes.

10 Q. It relates to the roll over of a credit for

11 Brussels Translation Group; is that correct?

12 A. It seems so.

13 Q. Were you involved in the approval of the

14 initial Brussels Translation Group loan on or about

15 October 7th 1997?

16 THE INTERPRETER: Not as far as I remember.

17 MS DYER: You were not on the Credit

18 Committee that approved that loan that you recall?

19 A. I can't remember that.

20 Q. Were you involved in the approval of the

21 grant of the roll over that is referenced here on

22 Saverys Exhibit 30?

23 A. I can't remember.

24 Q. Do you know why you're CCed on this document?

25 A. As being at that moment active in Corporate

1 Banking.

2 Q. What is this document exactly?

3 A. I try to see what it is as a document. I
4 don't know exactly. The first page anyhow is a
5 decision of the Management Committee, Management Board
6 Committee from 31st March and that is the written --

7 THE INTERPRETER: It is the decision of the
8 Management Committee written down in writing.

9 MS DYER: And it indicates an approval of
10 that loan extension or that loan roll over, correct?

11 A. It is to do with that, yes.

12 Q. Then the subsequent pages appear to be a memo
13 related to that loan BTG, correct?

14 A. I don't know, I imagine but I don't know. I
15 can't confirm it but I don't know. I imagine it is
16 that.

17 Q. If you look at DBB 038306?

18 A. Yes.

19 Q. Under item number two, context of the
20 operation, it refers to Brussels Translation Group?

21 A. Yes, I see that, yes.

22 Q. If you turn to the next page which is DBB
23 038307?

24 A. Yes.

25 Q. Let me just ask you first, you were CCed on

1 this document, have you seen this document before?

2 A. I don't remind me the document, no. I don't
3 remember the document.

4 Q. Do you have any reason to believe that you
5 didn't receive it given that you are a CC on it?

6 A. I have no reason to believe that I didn't
7 receive it.

8 Q. Is any of the handwriting on the document
9 yours?

10 A. No.

11 Q. If you look at item number three, DBB 038307?

12 A. Yes.

13 Q. It says:

14 "US GAP restricts the possible structuring
15 of the operation."

16 Do you see that?

17 A. I see that, yes.

18 Q. It says:

19 "The operation has two benefits for L&H, the
20 loan for the financing of the developments cost is
21 granted to a third party, that is BTG, and will
22 consequently not affect the balance sheet of L&H."

23 A. I see that.

24 Q. Number two:

25 "The compensation for development costs

1 which BTG will pay to L&H will constitute company
2 income for L&H."

3 A. I see that.

4 Q. Those are two benefits, or similar benefits
5 that we looked at for the LDF loan we look at earlier?

6 A. As far as I remember I think so, yes.

7 Q. And Dexia was aware of those benefits in
8 structuring the loan this way?

9 A. Was informed of that, yes.

10 Q. Then it says:

11 "To realise these benefits it is essential
12 under US GAP that the transaction between BTG and L&H
13 be considered as a mere commercial transaction taking
14 place between independent and free parties under normal
15 economic circumstances."

16 Do you see that?

17 A. I see that, yes.

18 Q. "By taking the Stock Exchange quotation of
19 L&H on the NASDAQ into consideration the US GAP
20 regulations will need to be applied in a stringent
21 manner which will be monitored strictly by the American
22 Securities and Exchange Commission."

23 Do you see that?

24 A. I see that yes.

25 Q. And then it indicates below that the

1 characteristics that the transaction needs to show?

2 A. Yes.

3 THE INTERPRETER: Yes, I can see that.

4 MS DYER: The first is:

5 "L&H in no manner will be involved directly
6 or indirectly in the financing of BTG."

7 Do you see that?

8 A. I see that yes.

9 Q. "L&H may never be held liable directly or
10 indirectly by means of the guarantee with regard to
11 repayment of the financing granted to BTG."

12 Do you see that?

13 A. I see that, yes.

14 MS DYER: We have to change the tape and so
15 why don't we go ahead and take a break.

16 THE VIDEOGRAPHER: Off the record at
17 4 o'clock.

18

19 (Short adjournment)

20

21 THE VIDEOGRAPHER: Starting roll seven in
22 the deposition of Francois Saverys. Going back on the
23 record at 16.11.

24 MS DYER: Returning to Saverys Exhibit 30
25 which was the document we were talking about before the

1 break, Mr Saverys, if you could just look at the last
2 page of that document DBB 038308?

3 A. Yes.

4 Q. It says:

5 "By taking standards of US GAP into
6 consideration L&H cannot provide us any additional
7 guarantees for the period of development of the machine
8 translation software without rendering the entire
9 operation useless."

10 Do you see that?

11 A. Yes, I see that.

12 Q. Did you understand that at the time this
13 document was written on or around March 19th 1998?

14 A. I don't remember the document.

15 Q. Regardless of whether you remember the
16 document did you understand that with regard to the BTG
17 entity and the loan that the entire operation would be
18 rendered useless?

19 A. I understand what I read there, yes.

20 Q. Did you understand it at the time that the
21 BTG loan was extended in March 1998?

22 A. I tell you that I don't remember the note as
23 such.

24 Q. Let me ask you to take a look at two
25 documents, one that we will mark as Saverys Exhibit 31

1 and Saverys Exhibit 32.

2 (Marked for identification Saverys Exhibits 31 and 32).

3 I ask you to take a look at the documents
4 before you, Saverys Exhibit 31 is DBB 039346 and 347.
5 Saverys Exhibit 32 is DBB 039354 and 355, they are both
6 entitled deed of guarantee and I ask you to look at
7 these and tell me if you have seen these before?

8 A. I don't remember.

9 Q. These are guarantees that Messrs Lernout
10 Hauspie & Willaert gave in favour of Artesia Bank in
11 connection with the BTG loans; is that correct?

12 A. I suppose so, I imagine that that was the
13 case, yes.

14 Q. And Saverys Exhibit 31, the first one is
15 dated March 31st 1998, correct, if you look at page
16 two?

17 A. Yes.

18 Q. And Saverys -- sorry, go ahead. And Saverys
19 Exhibit 32 is dated June 19th 1998, correct?

20 A. I see the date of June 98, yes.

21 Q. If you look at what we will mark as Saverys
22 Exhibit 33.

23 (Marked for identification Saverys Exhibit 33)

24 Saverys Exhibit 33 is DBB 027616 through 619,
25 it is from Patrick Faict and Ivan Decoen to Rene Avonts

1 and Jan Van Der Ven regarding the Brussels Translation
2 Group dossier, do you see that?

3 A. I see that.

4 Q. It indicates a decision to a second
5 withdrawal with an increase of personal guarantee of
6 Lernout Hauspie & Willaert up to US 6,600,000, correct?

7 A. That's what I read.

8 Q. Does that refresh your recollection that
9 there was, in fact, guarantees by Messrs Lernout &
10 Hauspie Willaert on the Brussels Translation Group loan
11 or BTG loan?

12 A. I don't remember anything from this Brussels,
13 regarding the Brussels Translation Group.

14 Q. You had no reason to believe that the
15 guarantees that we have seen or the memos indicating
16 that there are guarantees are inaccurate in any way, do
17 you?

18 A. No.

19 Q. Let me show you a document we will mark as
20 Saverys Exhibit 32 -- 34.

21 (Marked for identification Saverys Exhibit 34)

22 MS DYER: Sorry, 34 this is a memo dated
23 September 30th 1998 from Patrick Faict to Jan Van Der
24 Ven and Geert Dauwe. It is regarding Brussels
25 Translation Group NV, do you see that?

1 A. I see that, yes.

2 Q. Can you tell me if you have seen this
3 document before, sir?

4 A. I cannot remember.

5 Q. Can you tell me what this document is, if you
6 know?

7 A. I should read it. I have to read it. It is
8 a request for payment I see.

9 Q. A request for payment on the Brussels
10 Translation Group loan?

11 A. For payment by Brussels Translation Group.

12 Q. It is a request for payments by whom to
13 Brussels Translation Group, though?

14 A. Payment by Brussels Translation Group.

15 Q. To the Bank?

16 A. I don't know to whom.

17 Q. But it indicates --

18 A. It is a request, no a request inside in the
19 Bank.

20 Q. To obtain payment?

21 THE INTERPRETER: As part of an application
22 for payment Brussels Translation Group are asking to be
23 allowed to pay an invoice.

24 MS DYER: Okay, is that invoice -- who is
25 the invoice going to that Brussels Translation Group is

1 paying?

2 A. I don't know.

3 Q. Would that be Lernout & Hauspie?

4 A. I don't know.

5 Q. If you look at page two it says:

6 "In context number two BTG has Lernout &
7 Hauspie L&H development commercialised machine
8 translation software."

9 Do you see that?

10 A. I see that, yes.

11 Q. Then if you look down a little bit further a
12 couple of paragraphs:

13 "The development of the machine translation
14 software is divided into a number of milestones."

15 Do you see that?

16 A. Yes, I see that, yes.

17 Q. It says:

18 "In September 99 a complete product speech
19 technology needs to be delivered for all language
20 pairs," and it identifies those language pairs,
21 correct?

22 A. Where is that?

23 Q. Then --

24 A. Where is that, the second paragraph?

25 Q. No, the third paragraph under "context"?

1 A. Yes.

2 Q. Do you see that?

3 A. Umm hmm.

4 Q. Then if you look at the last paragraph under
5 contact:

6 "The realisation of each milestone will be
7 certified by an independent expert ST. Bodemcamp
8 appointed by BTG."

9 A. Yes.

10 Q. Then it says:

11 "Per certified milestone part of the
12 development fees will need to be paid."

13 A. Umm hmm.

14 Q. Then it says:

15 "BTG finances the development by means of
16 capital and by means of Bank credit."

17 Do you see that?

18 A. Yes.

19 Q. So is BTG then paying these milestone
20 payments to L&H?

21 A. That will probably be so, yes.

22 Q. If you look under number two: "Coverage of
23 the total of our risk by L&H." Do you know that, what
24 that refers to, number two the heading "coverage of the
25 total of our risk by L&H", do you know what that refers

1 to?

2 A. Probably referring to the transaction.

3 Q. Referring to the BTG loan?

4 A. To this transaction probably, I don't know.

5 Q. Which would be the BTG loan?

6 A. I don't know.

7 Q. Isn't that what we are talking about, this is
8 the relationship between BTG and Artesia is that BTG is
9 a borrower and Artesia is a lender, correct?

10 A. At that particular moment I think BTG was a
11 borrower and that Artesia was the lender, yes.

12 Q. So talking about the coverage of Dexia's
13 total risk on the BTG loan by L&H, correct?

14 A. That is the title of that point, yes.

15 Q. Then if you look at 2.1 it says:

16 "Impossibility under the US GAP to cover the
17 total of our risk by L&H."

18 Do you see that?

19 A. I see that, yes.

20 Q. So Dexia, I take it, viewed this as a risk of
21 L&H, in other words the BTG loan was a risk of L&H
22 according to Dexia, correct?

23 A. No, that is not what is written there.

24 Q. Well, they are trying to cover the risk by
25 L&H, correct?

1 A. Impossibility to cover the risk by L&H.

2 Q. It says "to cover the total of our risk by
3 L&H", did they cover part of the risk by L&H?

4 A. I can't remember.

5 Q. If you look at the text it says:

6 "We can state that this credit serves the
7 financing of machine translation project within L&H."

8 Do you see that?

9 A. Where is that?

10 Q. The first sentence under 2.1?

11 A. Yes, I see that.

12 Q. Then it says:

13 "For reasons common to the NASDAQ ISDAQ
14 quotation of L&H the financing of the entire project
15 was transferred to the special purpose vehicle Brussels
16 Translation Group NV."

17 Do you see that?

18 A. I see that, yes.

19 Q. So Dexia was aware that the reason why the
20 financing of this entire project was transferred from
21 L&H to BTG was because of security considerations,
22 correct?

23 A. No, just because what you see is following in
24 that note that it has to be seen as a transaction
25 completely independent.

1 Q. And the way that was --

2 A. As a pure commercial transaction.

3 Q. And that's in order to avoid the restrictions
4 of the NASDAQ and ISDAQ, correct?

5 A. That was a point to be looked at, to be very
6 careful therefore, yes.

7 Q. And the way that the loan was structured in
8 order to make it appear as a mere commercial
9 transaction was to create the BTG special purpose
10 vehicle and finance the project through BTG rather than
11 L&H, correct?

12 A. What do you say?

13 THE INTERPRETER: I did not use the term to
14 make it appear like.

15 MS DYER: But for -- well, to be considered
16 as a mere commercial transaction in order to circumvent
17 the restrictions of NASDAQ and ISDAQ Dexia was aware
18 that the financing was transferred to BTG as a special
19 purpose vehicle, correct?

20 THE INTERPRETER: And as a result there was
21 solely a risk on the part of the special purpose
22 vehicle.

23 MS DYER: Well, there was actually a risk
24 also we saw the guarantee of Messrs Lernout Hauspie &
25 Willaert, correct?

1 A. As private persons.

2 Q. They took a risk too, correct?

3 A. If they are giving a guarantee they are
4 taking a risk as private persons, yes.

5 Q. If you go to commercial risk?

6 A. The same page?

7 Q. No, following, DBB 038370. It says:

8 "The commercial risk is contractually
9 covered."

10 Do you see that?

11 A. I see that.

12 Q. "In the event the commercialisation fails the
13 repayment of the credit allocated to BTG will in first
14 place be guaranteed by the minimum sales performance
15 standards which L&H needs to accomplish as of 1999."

16 Correct?

17 A. I see that, yes.

18 Q. So there was a relationship between the
19 repayment of the BTG loan and L&H, correct?

20 A. I wouldn't say that, no.

21 Q. Well?

22 A. I don't know.

23 Q. The next sentence says L&H guarantee to pay
24 the minimum performance of 1999 and 2000 and 2001 and
25 gives an amount?

1 A. I read that.

2 Q. Were you aware of that at the time?

3 A. No.

4 Q. Look at the solution coverage for our risk --
5 strike that. Do you know if L&H guaranteed any part
6 of the BTG loan at any time?

7 A. I don't know.

8 Q. Look at 2.4, solution coverage for our risk,
9 it says:

10 "As a solution for the coverage of our risk
11 put and call options would be established by and
12 between Artesia BTG and Mr N Willaert, Mr P Hauspie and
13 Mr J Lernout."

14 Do you see that?

15 A. I see that, yes.

16 Q. Then it says:

17 "Meanwhile it was also considered to remove
18 the risk from our books by means of a Default Swop."

19 Do you see that?

20 A. I read that, yes.

21 Q. Do you know what's meant by removing the risk
22 from our books by the means of a Default Swop?

23 A. I don't know.

24 Q. Would that be to eliminate the disclosure of
25 any guarantee?

1 A. No, I don't know.

2 Q. Do you know if the guarantee that Messrs
3 Lernout Hauspie & Willaert that we looked at as Saverys
4 Exhibits 31 and 32 were disclosed in the Letter of
5 Credit --

6 A. I don't know.

7 Q. Let me finish, regarding the BTG loan?

8 A. I don't know.

9 Q. Do you know if -- strike that. Why wasn't a
10 Default Swop done in connection with the BTG loan?

11 A. I don't know.

12 Q. Did you have any involvement in assessing the
13 possibility of the use of a default Swop in connection
14 with the BTG loan?

15 A. Not to my knowledge.

9 MS DYER: Mr Saverys, do you recall being in
10 meetings of the Credit Committee where any other
11 members of the Credit Committee expressed an opinion as
12 to whether the guarantees for either BTG or Dictation
13 had to be mentioned in the Letters of Credit?

14 A. No, I don't remember.

15 Q. With regard to BTG do you know if you were on
16 the Credit Committee that approved that loan?

17 A. I don't remember.

EXHIBIT QQ

Excerpts From The
April 24, 2006
Deposition of
Karl van Riet

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6 Q. I show you a document we will mark as Exhibit
7 40.

8 (Marked for identification Van Riet Exhibit 40)

9 This should be a two page document 027614
10 through 027615, let me first ask you to take a look at
11 this document which is a March 24th 2004 letter from
12 the Federal Police in Ieper to you. I take it that
13 you have seen this document before?

14 A. Yes.

15 Q. This relates to loans to BTG, correct?

16 A. Yes.

17 Q. And the Federal Police state that of the
18 documents that have been handed over the following
19 parts appear to be missing or incomplete, correct?

20 A. Yes, I can only reiterate what is there. It
21 states what it says there: I have checked the
22 additional documents handed by you on 10th March 2004
23 principally intended to become aware of the composition
24 of the various Management Committees who approved the
25 granting of credits, loans to and the credit, taking up

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1 of credits by BTG.

2 Q. And if you look at the next page, the second
3 to last paragraph of this document that begins with
4 I-N-D-E-Z-E, do you see that?

5 A. Yes.

6 Q. Do you see that paragraph?

7 A. Yes.

8 Q. It asks about guarantees for the BTG loan?

9 THE INTERPRETER: Mr Van Riet reads out the
10 sentence there which says:

11 "With regard to the taking up of a balance
12 and taking up of the exceedance we don't have one
13 single document or information which shows what the
14 sureties, what the guarantees were which were held by
15 Artesia with regard to these two credits being taken
16 up."

17 Q. Do you know what sureties there were,
18 guarantees there were with regard to these two
19 installments?

20 A. No.

21 Q. Do you know if there were any?

22 A. I can't remember me.

EXHIBIT RR

Excerpts From The
April 21, 2006
Deposition of
Jacques Janssens

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19 Q. Did you have any dealings,
20 during your tenure with Artesia Bank, with the
21 Artesia subsidiary Artesia Securities Inc?

22 A. I had the occasion, when I was
23 head of credit at Artesia, to look at a number of
24 Artesia Securities Inc transactions that had to do
25 with having holdings in unlisted companies that was

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1 part of their business, and I was part of the
2 credit committee that made decisions on this type
3 of transactions, but that was all.

4 Q. Were the Credit Committees, that
5 made those decisions, Credit Committees of Artesia
6 Bank Incorporation?

7 A. Yes.

8 Q. Is it true that, as director of
9 credit of Artesia Bank Incorporation, you had
10 authority to make decisions for Artesia Securities.

11 MR. BUTLER: Objection to form.

12 A. I can say two things. I was the
13 head of credit at Artesia group, and the decisions
14 made in the Artesia Securities files that were
15 within the scope of the Credit Committee were those
16 where there was unlisted counter party. There were
17 different procedures to which I did not participate
18 in when this had to do with listed counter party.

19 Q. When you say 'unlisted' you mean
20 not listed on any public exchange, is that correct?

21 A. Correct.

22 Q. And you refer to a position you
23 held with the Artesia group. What do you mean when
24 you say 'Artesia group'?

25 A. Artesia Bank and its

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1 subsidiaries.

2 Q. Did you hold a separate position
3 with any other subsidiary of Artesia Bank aside
4 from the bank itself - withdraw the question. You
5 were an officer of Artesia Bank, correct, sir?

6 A. That is correct.

7 Q. Were you an officer of any other
8 subsidiary of Artesia Bank Incorporation NV?

9 Q. So when you made decisions on
10 the unlisted companies...

11 A. Ahm.

12 Q. When you made decisions on the
13 unlisted companies that were presented by Artesia
14 Securities for credit analysis, you made that
15 decision as an officer of Artesia Bank
16 Incorporation NV, is that correct?

17 A. Yes probably, but all this was
18 wrought by group protocols. The bank committee had
19 authority on decisions for the subsidiaries, but in

20 this case the committee was enlarged with people,
21 representatives, from the subsidiaries; so there
22 were these internal protocols that made sure we
23 were not in contradiction with company law.

24 Q. Were those protocols written
25 down?

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1 A. Yes.

2 Q. Who was your principal contact
3 person at Artesia Securities when you did the
4 credit analysis of the unlisted companies?

5 A. Mr. Avonts I believe.

6 Q. And did Mr. Avonts hold a
7 position as a member of the Artesia Bank management
8 committee at the time that he was discussing
9 Artesia Securities business with you?

10 A. Mr. Avonts was a member of the
11 management committee but he did not discuss the
12 files with me; he discussed them with the bank
13 Credit Committee.

14 Q. Was Mr. Avonts also an officer
15 of Artesia Securities?

16 A. Yes.

17 Q. As the director of credit at
18 Artesia Bank, did you have authority to reject the
19 unlisted company credits that were proposed by
20 Artesia Securities?

21 A. Me personally no, but the Credit
22 Committee I belonged to, yes.

23 Q. So is it true that the Credit
24 Committee of Artesia Bank had authority to reject
25 proposed credits with unlisted companies that were

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1 proposed by Artesia Securities?

2 A. Artesia Securities was not
3 presenting requests for loan for unlisted
4 companies, they were proposing holdings in unlisted
5 companies.

6 Q. And did the Credit Committee of
7 Artesia Bank have the authority to reject the
8 proposal that Artesia Securities would require
9 certain unlisted companies as securities?

10 A. Yes.

11 Q. Were accounts of Artesia Bank
12 and Artesia Securities maintained in the same
13 place?

14 MR. BUTLER: Objection to form.

15 A. I am not competent to answer
16 this question. I do not know.

17 MR. ROCCO: Do you know who would
18 know the answer to that question?

19 A. No.

EXHIBIT SS

Excerpts From The
April 28, 2006
Deposition of
Philippe Steverlynck

1 MR EGAN: Mr Steverlynck, you testified
2 yesterday morning that at some point in time you became
3 a director of Artesia Securities; is that correct?

4 A. I did.

5 Q. At what point in time was that?

6 A. Approximately 2002 I think.

7 Q. Prior to?

8 A. September 2002 I think.

9 Q. Prior to that did you have any dealings with
10 the Artesia Securities branch of the Bank?

11 A. No before I was in charge of a Department
12 which we called Investment Banking, the CEO of Artesia
13 Securities was Mr Decraene D-E-C-R-A-E-N-E.

14 Q. When did you report to Mr Decraene?

15 A. From the period I left Kortrijk till I became
16 in charge of Dexia Securities.

17 Q. How long were you in that position reporting
18 to Mr Decraene?

19 A. I think one and a half years.

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11 Q. Do you have any contact with Artesia
12 Securities analysts?

13 A. Not at all.

14 Q. Do you have any contact with any Cordius
15 Asset Management analyst?

16 A. Not at all.

17 Q. Do you know where Artesia Securities was
18 based in 1999 and 2000?

19 A. I guess I do see on a separate floor.

20 Q. Separate floor, is that the same building
21 where Artesia Bank is located?

22 A. Yes.

23 Q. Do you know if customer accounts of Artesia
24 Bank and Artesia you are sureties were kept separate?

25 MR BUTLER: Objection to form.

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1 A. What do you mean by?

2 MR EGAN: Were the accounts maintained by
3 the same office?

4 MR BUTLER: Objection to form.

5 A. I cannot speak for the period 98 to 2000
6 because I had nothing to do with Artesia Securities.
7 I was speaking about the period I was in Kortrijk and
8 to be clear 98 to 2000 no, really.

9 MR EGAN: In the period 98 to 2000 did you
10 have any contact with Nadia Van Hove V A N, H O V E?

11 A. Not at all.

EXHIBIT TT

C L I F F O R D
C H A N C E

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May 19, 2006

VIA FACSIMILE

Patrick L. Rocco, Esq.
Shalov Stone & Bonner LLP
485 Seventh Avenue, Suite 1000
New York, NY 10018

Re: *Quaak v. Dexia Bank Belgium*
Stonington v. Dexia Bank Belgium
Filler v. Dexia Bank Belgium
Baker v. Dexia Bank Belgium

Dear Pat:

This responds to (1) your e-mail to me on May 12, 2006, concerning the depositions of Axel Miller and Stefaan Decraene, and (2) Steve Singer's letter to Teige Carroll dated May 17, 2006.

Mr. Miller and Mr. Decraene are the senior-most executives of Dexia S.A. and Dexia Bank Belgium, respectively. We do not believe that these individuals had any significant involvement in the transactions at issue in this litigation. Unless you can identify specific information available from these witnesses that would not be available from other witnesses (or through other forms of discovery), we believe that depositions of these executives would be unreasonable and inconsistent with Rule 26(b)(2). Accordingly, please let us know as soon as possible what specific areas of questioning you have in mind for these individuals.

Regarding Steve Singer's letter, Plaintiffs' contention that Dexia has "utterly ignored" Plaintiffs' depositions notices is incorrect. We have made our position clear that Dexia employees who are not officers, directors or managing agents of Dexia may not be noticed for depositions pursuant to Rule 30(b). Moreover, in cases where Plaintiffs have noticed the depositions of lower-level employees improperly, we have consistently taken the position that there is no obligation to seek a protective order, because such notices have no

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CLIFFORD CHANCE US LLP

Patrick L. Rocco, Esq.
May 19, 2006

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legal effect. Plaintiffs have not sought sanctions against Dexia for taking these positions in the past. It is a little late to start threatening to seek them now.

Sincerely,



Jeff E. Butler

cc: Patrick Egan, Esq.
Susan Davis, Esq.
Steven B. Singer, Esq.
Karen C. Dyer, Esq.
Alan Cotler, Esq.
Peter M. Saporoff, Esq.

EXHIBIT UU

Excerpt From The
April 25, 2006
Deposition of
François Saverys

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19 Q. And do you see where it discusses the Central
20 Credit Committee attended by you and Messrs Probst,
21 Piret, Janssens and Dauwe?

22 A. Yes, I see that.

23 Q. Do you agree that CDS two is not included in
24 the credit offer, do you see that?

25 A. Yes.

92

1 Q. It says:

2 "This decision was made despite a note from
3 the Specialised Activities Credit Secretariat which
4 clearly reflected the opinion of our lawyers."

5 A. Yes.

6 Q. So the opinion of the lawyers was to mention
7 the CDSs in the credit offers?

8 A. That was the opinion of the audit.

92

22 Q. Okay. Then if you look at the next
23 sentence, the next paragraph in the audit report it
24 says:

25 "We note an amendment to the credit agreement

93

1 of 12/22/98 was established on 6/17/99 for five months
2 after execution of CDS One."

3 Do you see that?

4 A. Second part.

5 Q. It says:

6 "In it the Bank Artesia stipulates that a
7 credit line is henceforth accompanied by a
8 supplementary guarantee i.e., the CDS one."

9 Do you see that?

10 A. Yes, I see that.

11 Q. So the CDS one was actually referenced as a
12 supplementary guarantee; is that correct?

13 A. That's what it means.

14 Q. It says:

15 "This declaration contradicts the truth.
16 The credit line has already been guaranteed by this
17 last agreement after 1/4/99."

18 Do you see that?

19 A. I see that.

20 Q. So it was actually not, well if you look at
21 it it says, if you look at the next paragraph, the

22 reference to henceforth was made, if the reference to
23 henceforth was made knowingly it would involve a false
24 declaration, do you see that?

25 A. I see that.

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1 Q. That's because actually the CDS was in place
2 before the term henceforth was actually used, correct
3 -- well, the credit line was not henceforth
4 accompanied by a CDS, the credit line had been
5 accompanied by the CDS for several months?

6 A. Well as far as I read here it should start in
7 99, yes.

8 Q. In January of 1999, not henceforth from June
9 17th 1999, correct?

10 A. I don't know. I just read here what you see
11 also but I can't make other conclusions on what I see.

94

18 Q. If you look down at Radial Belgium, do you
19 see the next reference on the same page to Radial
20 Belgium slightly below that?

21 A. Where? Yes, I see that.

22 Q. It says:

23 "With regard to this dossier we have the
24 same reservation for the Language Investment Company
25 dossier."

95

1 Do you see that?

2 A. Yes, yes.

3 Q. Then if you look over at the conclusions on
4 the next page there is a number of conclusions there,
5 do you see those bullet points?

6 A. I see that point, yes.

7 Q. It says:

8 "We shall finish by saying that with regard
9 to our study we have revealed significant operating
10 lapses addressed in another note."

11 Do you see that?

12 A. Yes, I see that.

13 Q. Who are Messrs Cloes and Dankelman?

14 A. Auditors.

15 Q. Did you ever speak with them about these
16 issues that are addressed in this January 20th 2000
17 memo?

18 A. I can't remember.

19 Q. You don't know one way or the other?

20 A. I can't remember that I talked to him about
21 that. I can't remember.

22 Q. Did you speak with anyone in the Audit
23 Department about the Radial or LIC Credit Default Swaps
24 or Letters of Credit?

25 A. Probably, but I can't remember.

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5 Q. Look, if you would, at the January 31st 2000
6 memo which is attached as the last two pages of this
7 document. In particular look at the last page?

8 A. Yes.

9 Q. DBB 083289, there is a discussion under item
10 three of CDS and 281.50 forms, do you see that?

11 A. I see that.

12 Q. It says:

13 "For every payment made pursuant to the CDSs
14 we refer to in this note the tax affairs office told us
15 that the 281.50 tax form should be filled out by
16 Artesia and isn't to the beneficiaries of the sums
17 paid."

18 Do you see that?

19 A. I see that.

20 Q. Do you know if such forms were filled out for
21 Messrs Lernout and Hauspie with regard to the Radial
22 and LIC CDSs?

23 A. I don't know.

24 Q. Look at the fourth paragraph and it says, do
25 you see where it says:

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1 "After we specified that in practice."

2 A. Yes.

3 Q. When there is doubt as regard classifying the
4 sum to be paid as profits or miscellaneous income the

5 debtor always fills out a 281.50 form so as not to be
6 subject following an audit to a special secret
7 commission charge, do you see that?

8 A. I see that, yes.

9 Q. Were you ever involved in any discussions as
10 to how to treat the premiums paid to Messrs Lernout &
11 Hauspie or owed to Messrs Lernout & Hauspie on the
12 Credit Default Swops?

13 A. Not directly, not directly, no.

14 Q. You don't recall any?

15 A. In fact, it is a tax issue so I am not a tax
16 expert.

17 Q. I am not referring just to discussions with
18 Messrs Lernout & Hauspie, I am referring to any
19 discussions with anyone?

20 A. I can't remember precisely something because
21 I am not in that tax Department.

22 Q. With regard to this particular document the
23 January 31st 2000 audit memo beginning at the first
24 page of DBB 083288, this was also prepared by Mr Cloes,
25 the second one which is the January 31st 2001?

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1 A. Yes, umm hmm, I think so, yes. He signed it
2 or his name is on the bottom.

3 Q. Let me ask you to take a look at a document
4 which we will mark which is previously marked as Van
5 Riet Exhibit 13, so I hope your counsel has a copy.

6 We won't remark it. It is just Van Riet Exhibit 13.
7 I ask you to first take a look at this document, DBB
8 087476 through 77, April 21st 1999 memorandum Internal
9 Audit from a Mr Gryp, G-R-Y-P, to a number of
10 individuals and tell me if you have seen this document
11 before?

12 A. Is that the question?

13 Q. The question is have you seen this document?

14 A. I can't remember having seen that, no.

15 Q. If you look back then at Saverys Exhibit 7,
16 the last page of that Exhibit which was the January
17 31st 2000 audit report, the very last a page, DBB
18 083289, are you there?

19 A. Yes.

20 Q. The very last sentence says:

21 "Lastly we recall that in a note of 4/21/99
22 the audit called attention to the fact that the
23 Language Investment Company CDS had not been posted on
24 the books and asked that the Radial Belgium CDS be
25 confirmed. There is nothing whereby we can say this

99

1 was done."

2 Do you see that?

3 A. Yes.

4 Q. Do you know what it meant by posting on the
5 books the language Investment Company CDS?

6 A. No, I don't know.

EXHIBIT VV

Excerpts From The
March 17, 2006
Deposition of
Claude Piret

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7 Q. I am going to show you what is marked as
8 Piret Exhibit 27, which is a document entitled
9 "Internal Audit Artesia Securities" BATES numbers DBB
10 083283 through 83287.

11 (Marked for identification Piret Exhibit 27)

12 Have you seen this document before, sir?

13 A. It can be, yes.

14 Q. Were you aware that the Bank's Internal Audit
15 office concluded in 2000 that the CDSs should have been
16 disclosed in the Letter of Credit for LIC and Radial?

17 A. At the bottom of the document I have to read
18 it before, but could be, yes.

19 Q. I am asking you even without reading the
20 document are you aware that as of January 2000 an
21 Internal Audit office had determined that the CDSs
22 should have been disclosed in the Letter of Credit for
23 Radial and for LIC?

24 A. My problem is that.

25 Q. Let's do it a different way. Are you aware

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1 that ultimately at some point in time the Internal
2 Audit Department concluded that the Credit Default
3 Swaps should have been disclosed in the LIC and the
4 Radial loan Letter of Credit?

5 A. Yes.

6 Q. That was their ultimate finding, correct?

7 A. That was the ultimate advice of the audit,

8 internal audit.

9 Q. If you look at the last page of this
10 document, the second to last page of this document
11 Piret 27, where it says "conclusions", do you see that?

12 A. Yes.

13 Q. Do you see the statement "Bank lawyers are
14 unanimous that CDSs should have been mentioned in the
15 Letters of Understanding sent to borrowers."

16 Do you see that?

17 A. Yes.

18 Q. Were you aware that it was the unanimous view
19 of the Bank's lawyers that the CDSs should have been
20 disclosed in the Letter of Credit going to the
21 borrowers on Radial and LIC loans?

22 A. Firstly, I was not aware that all the lawyers
23 of the Bank were unanimous about this point.
24 Secondly, the advice of the lawyer in the credit
25 proposal for this credit was not affirmative but

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1 conditional.

2 Q. What do you mean by not affirmative but
3 conditional?

4 A. It is mentioned in the piece that you have
5 submitted today that the CDS had to be mentioned if two
6 conditions were fulfilled.

7 Q. And one of them was if the borrower and the
8 CDS issuer were not totally foreign to each other then
9 the CDS would have to be disclosed in the Letter of

10 Credit, correct?

11 A. Yes.

12 Q. And that was the view of Mr Mommens, correct?

13 A. Yes.

14 Q. But in your view that under the circumstances
15 of the LIC and Radial loan that would not require
16 disclosure of the CDS in the Letters of Credit,
17 correct?

18 A. To the best of my knowledge during the
19 Committee where it has been discussed, the consensus on
20 the basis of the advice of the credit proposal and the
21 conversation that has been taken outside in a margin of
22 this problem, were so that the Committee unanimously
23 decided not to mention them.

24 Q. Do you know sitting here today whether
25 Mr Mommens shares your interpretation of his legal

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1 opinion?

2 A. I don't know.

3 Q. Have you spoken to him?

4 A. No.

5 Q. You never asked him what he meant when he
6 said those conditions?

7 A. No.

8 Q. At any time you never asked him that?

9 A. No, to the best of my knowledge, of course.